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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at <http://www.sos.mo.gov/adrules/pubsched.asp>

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RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 28, *Missouri Register*, page 27. The approved short form of citation is 28 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation , i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—The most recent version of the statute containing the section number and the date.

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240—Public Service Commission Chapter 32—Telecommunications Service

EMERGENCY RULE

4 CSR 240-32.180 Definitions—Caller Identification Blocking Service

PURPOSE: This rule defines terms used in 4 CSR 240-32.190.

EMERGENCY STATEMENT: This emergency rule is necessary to protect the health, safety and welfare by establishing uniform standards and procedures to be followed by all telecommunications companies statewide in providing caller identification blocking service. Although telecommunications companies currently provide call blocking services to prevent the telephone number and identity of a caller from being displayed on the telephone of the called party, the call blocking procedures are not uniform throughout the state, and the commission recently has received information from individuals representing domestic violence shelters that some calls of a sensitive nature are not being blocked as intended. When such sensitive calls placed by law enforcement agencies or domestic violence intervention agencies to persons in distress or in need of emergency assistance are not blocked as intended, the identity of the caller may be unintentionally revealed to a person who has access to the called party's

telephone and who desires to harm the called party. This creates a danger to the safety of the called parties in such circumstances and impedes the efforts of law enforcement agencies and domestic violence agencies. Because of this situation, the commission finds an immediate danger to the health, safety and welfare and a compelling governmental interest which requires this emergency action. In taking this action, the commission believes that it has used procedures best calculated to provide fairness to all interested persons and parties under the circumstances due to the fact that an essentially similar rule has been circulated for industry review and comment as part of a larger regular rulemaking on company information exchanges. Further, this emergency rule will have no fiscal impact on any state agency, and will have very little or no fiscal impact on any telecommunications company, business or individual. The scope of this emergency rule is limited to the circumstances that created the emergency and that require emergency action, and the rule complies with the protections extended in the *Missouri* and *United States Constitutions*. This emergency rule was filed September 26, 2003, effective October 6, 2003, and expires April 2, 2004.

(1) Caller Identification—A service providing for a caller's originating telephone number to appear through the use of a display box at the called party's location.

(2) Per-Line Blocking—A service providing for an originating telephone number to be blocked from appearing on a display box at the called party's location. Per-line blocking is accomplished without the need of the caller to dial an access code.

AUTHORITY: sections 386.040, 386.250 and 392.200, RSMo 2000. Emergency rule filed Sept. 26, 2003, effective Oct. 6, 2003, expires April 2, 2004.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240—Public Service Commission Chapter 32—Telecommunications Service

EMERGENCY RULE

4 CSR 240-32.190 Standards for Providing Caller Identification Blocking Service

PURPOSE: This rule sets forth standards to be followed for Caller Identification Blocking Service.

EMERGENCY STATEMENT: This emergency rule is necessary to protect the health, safety and welfare by establishing uniform standards and procedures to be followed by all telecommunications companies statewide in providing caller identification blocking service. Although telecommunications companies currently provide call blocking services to prevent the telephone number and identity of a caller from being displayed on the telephone of the called party, the call blocking procedures are not uniform throughout the state, and the commission recently has received information from individuals representing domestic violence shelters that some calls of a sensitive nature are not being blocked as intended. When such sensitive calls placed by law enforcement agencies or domestic violence intervention agencies to persons in distress or in need of emergency assistance are not blocked as intended, the identity of the caller may be unintentionally revealed to a person who has access to the called party's telephone and who desires to harm the called party. This creates a danger to the safety of the called parties in such circumstances and impedes the efforts of law enforcement agencies and domestic violence agencies. Because of this situation, the commission finds an

immediate danger to the health, safety and welfare and a compelling governmental interest which requires this emergency action. In taking this action, the commission believes that it has used procedures best calculated to provide fairness to all interested persons and parties under the circumstances due to the fact that an essentially similar rule has been circulated for industry review and comment as part of a larger regular rulemaking on company information exchanges. Further, this emergency rule will have no fiscal impact on any state agency, and will have very little or no fiscal impact on any telecommunications company, business or individual. The scope of this emergency rule is limited to the circumstances that created the emergency and that require emergency action, and the rule complies with the protections extended in the *Missouri* and *United States Constitutions*. This emergency rule was filed September 26, 2003, effective October 6, 2003, and expires April 2, 2004.

(1) All telecommunications companies shall provide per-line blocking for federal, state, and local law enforcement agencies and private, nonprofit, tax-exempt domestic violence intervention agencies, and the employees of these agencies who have a need for such blocking pursuant to their employment. A telecommunications company shall enable per-line blocking within a reasonable time after a request from such an agency. A telecommunications company may determine whether the request has been made by a law enforcement or domestic violence intervention agency.

(2) No telecommunications company shall charge any fee for per-line caller identification blocking for authorized federal, state, and local law enforcement agencies and private, nonprofit, tax-exempt domestic violence intervention agencies, and the employees of these agencies who have a need for such blocking pursuant to their employment.

AUTHORITY: sections 386.040, 386.250 and 392.200, RSMo 2000. Emergency rule filed Sept. 26, 2003, effective Oct. 6, 2003, expires April 2, 2004.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—[Division of] Family [Services] Support
Division
Chapter 19—Energy Assistance
EMERGENCY AMENDMENT

13 CSR 40-19.020 Low Income Home Energy Assistance Program. The Family Support Division is amending the monthly income ranges contained in the LIHEAP Income Ranges Chart immediately following subsection (3)(D) of this rule.

PURPOSE: This amendment adjusts the monthly income amounts on the LIHEAP Income Ranges Chart to reflect changes made in the federal poverty guidelines.

EMERGENCY STATEMENT: The division finds that there exists an immediate danger to the public welfare, which requires emergency action. This emergency amendment follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances, complies with the protections extended by the Missouri and United States Constitutions and limits the scope of the emergency amendment to the circumstances creating the emergency and requiring emergency procedure. An emergency amendment is necessary because of the planned implementation of the program in October, 2003. Postponing the date for acceptance of energy assistance applications will result in individuals having their utility service terminated. Termination of utility service can produce a health hazard, particularly to elderly and disabled individuals, since they are more susceptible to hypothermia.

The rule is necessary to preserve a compelling governmental interest requiring an early effective date in that the rule informs the public regarding income guidelines for receipt of assistance. The eligibility criteria for energy assistance changes each year based on poverty guidelines announced by the federal government. It is essential for persons potentially eligible for low income home energy assistance to have timely information related to the income guidelines prior to the need for assistance. The procedure employed is fair to all interested parties concerned inasmuch as it equitably allocates energy assistance benefits based on household size and available resources. Emergency amendment filed September 19, 2003, effective October 1, 2003, expires March 28, 2004.

(3) Primary eligibility requirements for this program are as follows:

(D) Each household must have a monthly income no greater than the specific amounts based on household size as set forth in the Low Income Home Energy Assistance Program (LIHEAP) Income Ranges Chart. If the household size and composition of a LIHEAP applicant household can be matched against an active food stamp case reflecting the same household size and composition, monthly income for LIHEAP will be established by using the monthly income documented in the household's food stamp file.

[LIHEAP INCOME RANGES CHART

Monthly Income Amounts

<i>Household Size</i>	<i>Income Range</i>	<i>Income Range</i>	<i>Income Range</i>	<i>Income Range</i>	<i>Income Range</i>
1	\$0-185	\$186-371	\$372-557	\$558-743	\$744-923
2	\$0-249	\$250-499	\$500-749	\$750-999	\$1,000-1,244
3	\$0-288	\$289-577	\$578-866	\$867-1,155	\$1,156-1,439
4	\$0-347	\$348-695	\$696-1,043	\$1,044-1,391	\$1,392-1,735
5	\$0-406	\$407-813	\$814-1,220	\$1,221-1,627	\$1,628-2,030
6	\$0-472	\$473-945	\$946-1,418	\$1,419-1,891	\$1,892-2,359
7	\$0-524	\$525-1,049	\$1,050-1,574	\$1,575-2,099	\$2,100-2,620
8	\$0-583	\$584-1,167	\$1,168-1,751	\$1,752-2,335	\$2,336-2,915
9	\$0-642	\$643-1,285	\$1,286-1,928	\$1,929-2,571	\$2,572-3,210
10	\$0-701	\$702-1,403	\$1,404-2,105	\$2,106-2,807	\$2,808-3,506
11	\$0-760	\$761-1,521	\$1,522-2,282	\$2,283-3,043	\$3,044-3,801
12	\$0-819	\$820-1,639	\$1,640-2,459	\$2,460-3,279	\$3,280-4,096
13	\$0-878	\$879-1,757	\$1,758-2,636	\$2,637-3,515	\$3,516-4,391
14	\$0-937	\$938-1,875	\$1,876-2,813	\$2,814-3,751	\$3,752-4,686
15	\$0-996	\$997-1,993	\$1,994-2,990	\$2,991-3,987	\$3,988-4,981
16	\$0-1,055	\$1,056-2,111	\$2,112-3,167	\$3,168-4,223	\$4,224-5,277
17	\$0-1,114	\$1,115-2,229	\$2,230-3,344	\$3,345-4,459	\$4,460-5,572
18	\$0-1,173	\$1,174-2,347	\$2,348-3,521	\$3,522-4,695	\$4,696-5,867
19	\$0-1,232	\$1,233-2,465	\$2,466-3,698	\$3,699-4,931	\$4,932-6,162
20	\$0-1,291	\$1,292-2,583	\$2,584-3,875	\$3,876-5,167	\$5,168-6,457]

LIHEAP INCOME RANGES CHART

Monthly Income Amounts

Household Size	Income Range	Income Range	Income Range	Income Range	Income Range
1	\$0-187	\$188-375	\$376-563	\$564-751	\$752-935
2	\$0-253	\$254-507	\$508-761	\$762-1,015	\$1,016-1,263
3	\$0-318	\$319-637	\$638-956	\$957-1,275	\$1,276-1,590
4	\$0-383	\$384-767	\$768-1,151	\$1,152-1,535	\$1,536-1,917
5	\$0-449	\$450-899	\$900-1,349	\$1,350-1,799	\$1,800-2,244
6	\$0-514	\$515-1,029	\$1,030-1,544	\$1,545-2,059	\$2,060-2,571
7	\$0-580	\$581-1,161	\$1,162-1,742	\$1,743-2,323	\$2,324-2,898
8	\$0-645	\$646-1,291	\$1,292-1,937	\$1,938-2,583	\$2,584-3,225
9	\$0-710	\$711-1,421	\$1,422-2,132	\$2,133-2,843	\$2,844-3,552
10	\$0-776	\$777-1,553	\$1,554-2,330	\$2,331-3,107	\$3,108-3,879
11	\$0-841	\$842-1,683	\$1,684-2,525	\$2,526-3,367	\$3,368-4,206
12	\$0-907	\$908-1,815	\$1,816-2,723	\$2,724-3,631	\$3,632-4,533
13	\$0-972	\$973-1,945	\$1,946-2,918	\$2,919-3,891	\$3,892-4,860
14	\$0-1,038	\$1,039-2,077	\$2,078-3,116	\$3,117-4,155	\$4,156-5,188
15	\$0-1,103	\$1,104-2,207	\$2,208-3,311	\$3,312-4,415	\$4,416-5,515
16	\$0-1,168	\$1,169-2,337	\$2,338-3,506	\$3,507-4,675	\$4,676-5,842
17	\$0-1,234	\$1,235-2,469	\$2,470-3,704	\$3,705-4,939	\$4,940-6,169
18	\$0-1,299	\$1,300-2,599	\$2,600-3,899	\$3,900-5,199	\$5,200-6,496
19	\$0-1,365	\$1,366-2,731	\$2,732-4,097	\$4,098-5,463	\$5,464-6,823
20	\$0-1,430	\$1,431-2,861	\$2,862-4,292	\$4,293-5,723	\$5,724-7,150

AUTHORITY: section 207.020, RSMo 2000. Emergency rule filed Nov. 26, 1980, effective Dec. 6, 1980, expired March 11, 1981. Original rule filed Nov. 26, 1980, effective March 12, 1981. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 19, 2003, effective Oct. 1, 2003, expires March 28, 2004. A proposed amendment covering this same material is published in this issue of the Missouri Register.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 10—Nursing Home Program

EMERGENCY AMENDMENT

13 CSR 70-10.015 Prospective Reimbursement Plan for Nursing Facility Services. The division is amending section (13).

PURPOSE: This amendment provides for a nursing facility operations adjustment, a ninety percent (90%) High Volume Grant and a second tier high volume adjustment for SFY 2004.

EMERGENCY STATEMENT: This emergency amendment is necessary to implement operations adjustments, a ninety percent (90%) High Volume Grant, and a second tier high volume adjustment for providers of nursing facility services for State Fiscal Year 2004. It must be implemented on a timely basis to ensure that quality nursing facility services continue to be provided to the twenty-five thousand (25,000) Medicaid patients in nursing facilities. The Division of Medical Services finds an immediate danger to public health which requires emergency action and the amendment is necessary to preserve a compelling governmental interest that requires an early effective date. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protection extended by the Missouri and United States Constitutions. Therefore, the division believes this emergency amendment to be fair to all interested persons and parties under the circumstances. Emergency amendment filed September 22, 2003, effective October 1, 2003, expires March 28, 2004.

(13) Adjustments to the Reimbursement Rates. Subject to the limitations prescribed elsewhere in this regulation, a facility's reimbursement rate may be adjusted as described in this section.

(A) Global Per Diem Rate Adjustments. A facility with either an interim rate or a prospective rate may qualify for the global per diem rate adjustments. Global per diem rate adjustments shall be added to the specified cost component ceiling.

1. FY-96 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1995, shall be granted an increase to their per diem effective October 1, 1995, of 4.6% of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1. and the property insurance and property taxes detailed in paragraph (11)(D)3. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of this regulation.

2. FY-97 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1996, shall be granted an increase to their per diem effective October 1, 1996, of 3.7% of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1. and the property insurance and property taxes detailed in paragraph (11)(D)3. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of this regulation.

3. NFRA. Effective October 1, 1996, all facilities with either an interim rate or a prospective rate shall have its per diem adjusted to include the current NFRA as an allowable cost in its reimbursement rate calculation.

4. Minimum wage adjustment. All facilities with either an interim rate or a prospective rate in effect on November 1, 1996, shall be granted an increase to their per diem effective November 1, 1996, of two dollars and forty-five cents (\$2.45) to allow for the change in minimum wage. Utilizing Fiscal Year 1995 cost report data, the total

industry hours reported for each payroll category was multiplied by the fifty-cent (50¢) increase, divided by the patient days for the facilities reporting hours for that payroll category and factored up by 8.67% to account for the related increase to payroll taxes. This calculation excludes the director of nursing, the administrator and assistant administrator.

5. Minimum wage adjustment. All facilities with either an interim rate or a prospective rate in effect on September 1, 1997, shall be granted an increase to their per diem effective September 1, 1997, of one dollar and ninety-eight cents (\$1.98) to allow for the change in minimum wage. Utilizing Fiscal Year 1995 cost report data, the total industry hours reported for each payroll category was multiplied by the forty-cent (40¢) increase, divided by the patient days for the facilities reporting hours for that payroll category and factored up by 8.67% to account for the related increase to payroll taxes. This calculation excludes the director of nursing, the administrator and assistant administrator.

6. FY-98 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1997, shall be granted an increase to their per diem effective October 1, 1997, of 3.4% of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1. and the property insurance and property taxes detailed in paragraph (11)(D)3. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of this regulation.

7. FY-99 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1998, shall be granted an increase to their per diem effective October 1, 1998, of 2.1% of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., the property insurance and property taxes detailed in paragraph (11)(D)3. of this regulation and the minimum wage adjustments detailed in paragraphs (13)(A)4. and (13)(A)5.; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. that is in effect on October 1, 1998, shall have their increase determined by subsection (3)(S) of this regulation.

8. FY-2000 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on July 1, 1999, shall be granted an increase to their per diem effective July 1, 1999, of 1.94% of the cost determined in subsections (11)(A), (11)(B), (11)(C), the property insurance and property taxes detailed in paragraph (11)(D)3. and the minimum wage adjustments detailed in paragraphs (13)(A)4. and (13)(A)5. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. that is in effect on July 1, 1999, shall have their increase determined by subsection (3)(S) of this regulation.

9. FY-2004 nursing facility operations adjustment—

A. Facilities with either an interim rate or prospective rate in effect on July 1, 2003, shall be granted an increase to their per diem effective for dates of service beginning July 1, 2003 through June 30, 2004 of four dollars and thirty-two cents (\$4.32) for the cost of nursing facility operations. Effective for dates of service beginning July 1, 2004, the per diem adjustment shall be reduced to three dollars and seventy-eight cents (\$3.78).

B. The operations adjustment shall be added to the facility's current rate as of June 30, 2003 and is effective for payment dates after August 1, 2003.

(B) Special Per Diem Rate Adjustments. Special per diem rate adjustments may be added to a qualifying facility's rate without regard to the cost component ceiling if specifically provided as described below.

1. Patient care incentive. Each facility with a prospective rate on or after January 1, 1995, shall receive a per diem adjustment equal to ten percent (10%) of the facility's allowable patient care per diem subject to a maximum of one hundred thirty percent (130%) of the

patient care median when added to the patient care per diem as determined in subsection (11)(A). This adjustment will not be subject to the cost component ceiling of one hundred twenty percent (120%) for the patient care median.

2. Ancillary incentive. Each facility with a prospective rate on or after January 1, 1995, and which meets one (1) of the following criteria shall receive a per diem adjustment:

A. If the facility's allowable ancillary per diem as determined in subsection (11)(B) is below ninety percent (90%) of the ancillary median, the adjustment is equal to one-half (1/2) of the difference between one hundred twenty percent (120%) and ninety percent (90%) of the ancillary median. The following is an illustration of how the ancillary per diem adjustment is calculated:

120% of median	\$6.62
90% of median	\$4.97
Difference	\$1.65
1/2 the difference	<u>2</u>
Per diem adjustment	\$.83

B. If the facility's allowable ancillary per diem as determined in subsection (11)(B) is between ninety percent (90%) and one hundred twenty percent (120%) of the median, the adjustment is equal to one-half (1/2) of the difference between one hundred twenty percent (120%) of the median and the facility's allowable ancillary per diem. The following is an illustration of how the ancillary per diem adjustment is calculated:

90% of median	\$4.97
120% of median	\$6.62
Ancillary per diem	\$5.21
Difference	\$1.41
1/2 the difference	<u>2</u>
Per diem adjustment	\$.71

3. Multiple component incentive. Each facility with a prospective rate on or after January 1, 1995, and which meets the following criteria shall receive a per diem adjustment:

A. If the sum of the facility's patient care per diem and ancillary per diem, as determined in subsections (11)(A) and (B), is greater than or equal to sixty percent (60%) but less than or equal to eighty percent (80%), rounded to four (4) decimal places (.5985 or .8015 would not receive the adjustment), of the facility's total per diem, the adjustment is as follows:

Percent of Total Per Diem Rate	Incentive
< 60%	\$0.00
> or = 60% but < 65%	\$1.15
> or = 65% but < 70%	\$1.30
> or = 70% but < 75%	\$1.45
> or = 75% but < or 80% =	\$1.60

B. A facility shall receive an additional incentive if it receives the adjustment in subparagraph (13)(B)3.A. and the following calculation is greater than seventy-five percent (75%), rounded to four (4) decimal places (.7485 would not receive the adjustment): Medicaid days divided by the licensed nursing facility patient days from the facility's desk audited and/or field audited 1992 cost report. The adjustment is as follows:

Calculated Percentage	Incentive
< 75%	\$0.00
> or = 75% but < 80%	\$0.15
> or = 80% but < 85%	\$0.30
> or = 85% but < 90%	\$0.45
> or = 90% but < 95%	\$0.60
> or = 95%	\$0.75

4. 1967 *Life Safety Code* (LSC). Currently certified nursing facilities that must comply with a recent interpretation of paragraph 10-133 of the 1967 LSC which requires corridor walls to extend to the roof deck or achieve equivalency under the Fire Safety Evaluation System (FSES) will be reimbursed the reasonable and necessary cost to meet those standards required for compliance through their reimbursement rate. The reimbursement shall not be effective until the Division of Aging has confirmed that the corrective action to comply with the 1967 LSC or FSES is operational and has reviewed the cost for compliance. Fire sprinkler systems shall be reimbursed over a depreciation life of twenty-five (25) years, and other alternative corrective action will be reimbursed over a depreciable life of fifteen (15) years. The division will use a desk audited and/or field audited cost report with the latest period ending in calendar year 1992 which is on file with the division as of December 31, 1993. This adjustment will be computed based on the documented cost submitted to the division as follows:

A. Depreciation. The cost incurred for the approved corrective action to continue in compliance divided by the depreciable useful life;

B. Interest. The interest cost incurred to finance this project shall be documented by a statement from the lending institution detailing the total interest cost of the loan period. The total interest cost will be divided by the loan period on a straight line basis; and

C. The total of subparagraphs (13)(B)4.A. and B. will be divided by twelve (12) and then multiplied by the number of months covered by the 1992 cost report. This amount will be divided by the greater of actual patient days from the 1992 cost report or eighty-five percent (85%) of the licensed bed days from the 1992 cost report.

5. Any facility that had a 1967 LSC adjustment included in their December 31, 1994 reimbursement rate shall have that adjustment added to their January 1, 1995 reimbursement rate.

6. Replacement beds. A facility with a prospective rate in effect on or after January 1, 1995, may request a rate adjustment for replacement beds that resulted in the same number of beds being delicensed with the Division of Aging or the Department of Health. The facility shall provide documentation from the Division of Aging or the Department of Health that verifies the number of beds used for replacement have been delicensed from that facility. The rate adjustment will be calculated as the difference between the capital component per diem (fair rental value (FRV)) prior to the replacement beds being placed in service and the capital component per diem (FRV) including the replacement beds placed in service as calculated in subsection (11)(D) including the replacement beds placed in service. The capital component is calculated for the replacement beds using the asset value per licensed bed as determined using the R. S. Means Construction Index for nursing facility beds adjusted for the Missouri indexes for the date the replacement beds are placed in service.

7. Additional beds. A facility with a prospective rate in effect on or after January 1, 1995, may request a rate adjustment for additional beds. The facility must obtain an approved certificate of need or applicable waiver for the additional beds. The rate adjustment will be calculated as the difference between the capital component per diem (FRV) prior to the additional beds being placed in service and the capital component per diem (FRV) including the additional beds as calculated in subsection (11)(D) including the additional beds placed in service. The capital component is calculated for the additional beds using the asset value per licensed bed as determined using the R. S. Means Construction Index for nursing facility beds adjusted for the Missouri indexes for the date the additional beds are placed in service.

8. Extraordinary circumstances. A participating facility which has a prospective rate may request an adjustment to its prospective rate due to extraordinary circumstances. This request must be submitted in writing to the division within one (1) year of the occurrence of the extraordinary circumstance. The request must clearly and specifically identify the conditions for which the rate adjustment is sought. The dollar amount of the requested rate adjustment must be

supported by complete, accurate and documented records satisfactory to the division. If the division makes a written request for additional information and the facility does not comply within ninety (90) days of the request for additional information, the division shall consider the request withdrawn. Requests for rate adjustments that have been withdrawn by the facility or are considered withdrawn because of failure to supply requested information may be resubmitted once for the requested rate adjustment. In the case of a rate adjustment request that has been withdrawn and then resubmitted, the effective date shall be the first day of the month in which the resubmitted request was made providing that it was made prior to the tenth day of the month. If the resubmitted request is not filed by the tenth of the month, rate adjustments shall be effective the first day of the following month. Conditions for an extraordinary circumstance are as follows:

A. When the provider can show that it incurred higher costs due to circumstances beyond its control, the circumstances were not experienced by the nursing home industry in general and the costs have a substantial cost effect;

B. Extraordinary circumstances include:

(I) Natural disasters such as fire, earthquakes and flood that are not covered by insurance and that occur in a federally declared disaster area; and

(II) Vandalism and/or civil disorder that are not covered by insurance; and

C. The rate increase shall be calculated as follows:

(I) The one (1)-time costs, (costs that will not be incurred in future fiscal years):

(a) To determine what portion of the incurred costs will be paid, the division will use the patient occupancy days from latest available quarterly occupancy survey from the Division of Aging for the time period preceding when the extraordinary circumstances occurred; and

(b) The costs directly associated with the extraordinary circumstances will be multiplied by the above percent. This amount will be divided by the paid days for the month the rate adjustment becomes effective per paragraph (13)(B)8. This calculation will equal the amount to be added to the prospective rate for only one (1) month, which will be the month the rate adjustment becomes effective. For this one (1) month only, the ceiling will be waived.

(II) For ongoing costs (costs that will be incurred in future fiscal years): Ongoing annual costs will be divided by the greater of: annualized (calculated for a twelve (12)-month period) total patient days from the latest cost report on file or eighty-five percent (85%) of annualized total bed days. This calculation will equal the amount to be added to the respective cost center, not to exceed the cost component ceiling. The rate adjustment, subject to ceiling limits will be added to the prospective rate.

(III) For capitalized costs, a capital component per diem (FRV) will be calculated as determined in subsection (11)(D). The rate adjustment will be calculated as the difference between the capital component per diem (FRV) prior to the extraordinary circumstances and the capital component per diem (FRV) including the extraordinary circumstances.

9. Quality Assurance Incentive.

A. Each nursing facility with an interim or prospective rate on or after July 1, 2000, shall receive a per diem adjustment of \$3.20. The Quality Assurance Incentive adjustment will be added to the facility's current rate.

B. The Quality Assurance Incentive per diem increase shall be used to increase the expenditures to a nursing facility's direct patient care costs. Direct patient care costs include all expenses in the patient care cost component (i.e., lines 46 through 69 of Schedule B in the Title XIX Cost Report). Any increases in wages and benefits already codified in a collective bargaining agreement in effect as of July 1, 2000, will not be counted towards the expenditure requirements of the Quality Assurance Incentive as stated above. Nursing

facilities with collective bargaining agreements shall provide such agreements to the division.

10. High volume adjustment. Effective for dates of service July 1, 2000, a high volume adjustment shall be granted to qualifying providers. A provider must qualify each July 1, the beginning of each state fiscal year (SFY), for the high volume adjustment and the adjustment will be effective for services rendered during the SFY, July 1 through June 30. For a provider who has a high volume adjustment on June 30, but does not qualify for the high volume adjustment on July 1 of the subsequent SFY, that provider's prospective rate will be reduced by the amount of the high volume adjustment included in the facility's prospective rate in effect June 30.

A. Each facility with a prospective rate on or after July 1, 2000, and which meets all of the following criteria shall receive a per diem adjustment:

(I) Have on file at the division a full twelve (12)-month cost report ending in the third calendar year prior to the state fiscal year in which the adjustment is being determined (i.e., for SFY 2001, the third prior year would be 1998, for SFY 2002, the third prior year would be 1999, etc.);

(II) The Medicaid patient days as determined from the cost report identified in part (13)(B)10.A.(I) exceeds eighty-five percent (85%) of the total patient days for all nursing facility licensed beds;

(III) The allowable cost per patient day as determined by the division from the applicable cost report for the patient care, ancillary and administration cost components, as set forth in paragraphs (11)(A)1., (11)(B)1. and (11)(C)1., exceeds the per diem ceiling for each cost component in effect at the end of the cost report period; and

(IV) State owned or operated facilities shall not be eligible for this adjustment.

B. The adjustment will be equal to ten percent (10%) of the sum of the per diem ceilings for the patient care, ancillary and administration cost components in effect on July 1 of each year. Effective July 1, 2002, the adjustment shall not accumulate from year to year.

C. The division may reconstruct and redefine the qualifying criteria and payment methodology for the high volume adjustment.

D. Second tier high volume adjustment. Effective for dates of service July 1, 2002, a second tier high volume adjustment shall be granted to qualifying providers.

(I) If a nursing facility qualifies for the first tier high volume adjustment, as set forth above in subparagraph (13)(B)10.A., it may qualify for the second tier adjustment if it meets the following criteria:

(a) The Medicaid patient days as determined from the cost report identified in part (13)(B)10.A.(I) exceeds ninety-three percent (93%) of the total patient days for all nursing facility licensed beds;

(b) The allowable cost per patient day as determined by the division from the applicable cost report for the patient care cost component, as set forth in paragraph (11)(A)1., exceeds one hundred twenty percent (120%) of the per diem ceiling for the patient care cost component in effect at the end of the cost report period; and

(c) The allowable cost per patient day as determined by the division from the applicable cost report for the administration cost component, as set forth in paragraph (11)(C)1., is less than one hundred fifty percent (150%) of the per diem ceiling for the administration cost component in effect at the end of the cost report period.

(II) The second tier high volume adjustment will be calculated as a percentage, to be determined by the Department of Social Services, of the sum of the per diem ceilings for the patient care, ancillary and administration cost components in effect on July 1 of each year. *[The adjustment for state fiscal year 2003 shall be*

eighteen dollars and fifty-six cents (\$18.56) per Medicaid day.]

(a) [The adjustment shall be distributed based on a quarterly amount, in addition to per diem payments, based on Medicaid days determined from the paid day report from Missouri's fiscal agent for pay cycles during the immediately preceding state fiscal year.] The adjustment for State Fiscal Year 2003 shall be eighteen dollars and fifty-six cents (\$18.56) per Medicaid day.

(b) [The state share of the second tier high volume adjustment shall come from certified public funds. If the aggregate certified public funds are less than the state match required, the total aggregate second tier high volume adjustment will be adjusted downward accordingly.] The adjustment for SFY 2004 shall be nineteen dollars and seventy-one cents (\$19.71) per Medicaid day.

(III) The adjustment shall be distributed based on a quarterly amount, in addition to per diem payments, based on Medicaid days determined from the paid day report from Missouri's fiscal agent for pay cycles during the immediately preceding state fiscal year.

(IV) The state share of the second tier high volume adjustment shall come from certified public funds. If the aggregate certified public funds are less than the state match required, the total aggregate second tier high volume adjustment will be adjusted downward accordingly.

[(IIII)] (V) A nursing facility must qualify for the adjustment each year to receive the additional quarterly payments.

E. High volume adjustment for nursing facilities without a full twelve (12)-month cost report. Effective for dates of service on or after January 17, 2003, the full twelve (12)-month cost report requirement set forth in (13)(B)10.A.(I) shall include nursing facilities that have on file at the division two (2) partial year cost reports that when combined cover a full twelve (12)-month period.

F. Medicaid hospice days to be included in determination of Medicaid occupancy. Effective for dates of service on or after January 17, 2003, the Medicaid patient days used to determine the Medicaid occupancy requirement set forth in (13)(B)10.A.(II) shall be calculated by adding the days paid for by the Medicaid nursing facility program plus the days paid for by the Medicaid hospice program from the cost report identified in part (13)(B)10.A.(I).

G. State Fiscal Year (SFY) 2004 Ninety Percent (90%) Medicaid High Volume Grant.

(I) Effective for SFY 2004, additional, one (1) time funding shall be provided to nursing facilities that qualify for the first tier high volume adjustment, as set forth above in subparagraph (13)(B)10.A., and whose Medicaid patient days as determined from the cost report identified in part (13)(B)10.A.(I) exceeds ninety percent (90%) of the total patient days for all nursing facility licensed beds.

(II) The SFY 2004 High Volume Grant will be calculated as a per diem adjustment based upon the funding appropriated by the general assembly and the Medicaid days incurred by the qualifying providers during SFY 2003. The adjustment for State Fiscal Year 2004 shall be two dollars and thirty-six cents (\$2.36) per Medicaid day.

(III) The adjustment shall be distributed based on a quarterly amount, in addition to per diem payments, based on Medicaid days determined from the paid days report from Missouri's fiscal agent for pay cycles during State Fiscal Year 2003.

11. Minimum Rate Adjustment. A minimum rate adjustment shall be granted to qualifying providers, as follows:

A. Effective for dates of service beginning July 1, 2001, the minimum Medicaid reimbursement rate for nursing facility services shall be eighty-five dollars (\$85).

AUTHORITY: sections 208.153, 208.159 and 208.201, RSMo 2000. Emergency rule filed Dec. 21, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 21, 1995, effective May 1, 1995, expired Aug. 28, 1995. Original rule filed Dec. 15, 1994, effective July 30, 1995. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 22, 2003, effective Oct. 1, 2003, expires March 28, 2004. A proposed amendment covering this same material is published in this issue of the Missouri Register.

Title 13—DEPARTMENT OF SOCIAL SERVICES Division 70—Division of Medical Services Chapter 10—Nursing Home Program

EMERGENCY AMENDMENT

13 CSR 70-10.080 Prospective Reimbursement Plan for HIV Nursing Facility Services. The division is adding paragraph (13)(A)5.

PURPOSE: This amendment provides for a nursing facility operations adjustment for SFY 2004.

EMERGENCY STATEMENT: This emergency amendment is necessary to implement an operations adjustment for HIV nursing facilities for State Fiscal Year 2004. It must be implemented on a timely basis to ensure that quality nursing facility services continue to be provided to the Medicaid patients in HIV nursing facilities. The Division of Medical Services finds an immediate danger to public health which requires emergency action and the amendment is necessary to preserve a compelling governmental interest that requires an early effective date. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protection extended by the Missouri and United States Constitutions. Therefore, the division believes this emergency amendment to be fair to all interested persons and parties under the circumstances. Emergency amendment filed September 22, 2003, effective October 1, 2003, expires March 28, 2004.

(13) Adjustments to the Reimbursement Rates. Subject to the limitations prescribed elsewhere in this regulation, a facility's reimbursement rate may be adjusted as described in this section.

(A) Global Per Diem Rate Adjustments. A facility with either an interim rate or a prospective rate may qualify for the global per diem rate adjustments. Global per diem rate adjustments shall be added to the specified cost component ceiling.

1. Minimum wage adjustment. All facilities with either an interim rate or a prospective rate in effect on September 1, 1997, shall be granted an increase to their per diem effective September 1, 1997, of one dollar and ninety-eight cents (\$1.98) to allow for the change in minimum wage. Utilizing Fiscal Year 1995 cost report data, the total industry hours reported for each payroll category was multiplied by the forty-cent (40¢) increase, divided by the patient days for the facilities reporting hours for that payroll category and factored up by 8.67% to account for the related increase to payroll taxes. This calculation excludes the director of nursing, the administrator and assistant administrator.

2. FY-98 negotiated trend factor.

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1997, shall be granted an increase to their per diem effective October 1, 1997, of 3.4% of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1. and the property insurance and property taxes detailed in paragraph (11)(D)3. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of this regulation.

3. FY-99 negotiated trend factor.

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1998, shall be granted an increase to their per diem effective October 1, 1998, of 2.1% of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., the property insurance and property taxes detailed in paragraph (11)(D)3. of this regulation and the minimum wage adjustment detailed in paragraph (13)(A)1.; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. that is in effect on October 1, 1998, shall have their increase determined by subsection (3)(S) of this regulation.

4. FY-2000 negotiated trend factor.

A. Facilities with either an interim rate or prospective rate in effect on July 1, 1999, shall be granted an increase to their per diem effective July 1, 1999, of 1.94% of the cost determined in subsections (11)(A), (11)(B), (11)(C), the property insurance and property taxes detailed in paragraph (11)(D)3. and the minimum wage adjustment detailed in paragraph (13)(A)1. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. that is in effect on July 1, 1999, shall have their increase determined by subsection (3)(S) of this regulation.

5. FY-2004 nursing facility operations adjustment.

A. Facilities with either an interim rate or prospective rate in effect on July 1, 2003, shall be granted an increase to their per diem effective for dates of service beginning July 1, 2003 through June 30, 2004 of four dollars and thirty-two cents (\$4.32) for the cost of nursing facility operations. Effective for dates of service beginning July 1, 2004, the per diem adjustment shall be reduced to three dollars and seventy-eight cents (\$3.78).

B. The operations adjustment shall be added to the facility's current rate as of June 30, 2003 and is effective for payment dates after August 1, 2003.

AUTHORITY: sections 208.153 and 208.201, RSMo [1994] 2000. Original rule filed Aug. 1, 1995, effective March 30, 1996. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 22, 2003, effective Oct. 1, 2003, expires March 28, 2004. A proposed amendment covering this same material is published in this issue of the Missouri Register.

Title 13—DEPARTMENT OF SOCIAL SERVICES

Division 70—Division of Medical Services

Chapter 10—Nursing Home Program

EMERGENCY AMENDMENT

13 CSR 70-10.110 Nursing Facility Reimbursement Allowance.
The division is adding subsection (2)(I).

PURPOSE: This amendment provides for the Nursing Facility Reimbursement Allowance of eight dollars and forty-two cents (\$8.42) per patient occupancy day for nursing facility services, effective July 1, 2003.

EMERGENCY STATEMENT: This emergency amendment is necessary to implement the Nursing Facility Reimbursement Allowance (NFRA) for providers of nursing facility services for State Fiscal Year 2004. It must be implemented on a timely basis to ensure that quality nursing facility services continue to be provided to the twenty-five thousand (25,000) Medicaid patients in nursing facilities. The Division of Medical Services finds an immediate danger to public health which requires emergency action and the amendment is necessary to preserve a compelling governmental interest that requires an early effective date. A proposed amendment, which covers the

same material, is published in this issue of the Missouri Register. This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protection extended by the Missouri and United States Constitutions. Therefore, the division believes this emergency amendment to be fair to all interested persons and parties under the circumstances. Emergency amendment filed September 22, 2003, effective October 1, 2003, expires March 28, 2004.

(2) NFRA Rates. The NFRA rates determined by the division, as set forth in (1)(B) above, are as follows:

(G) The NFRA will be seven dollars and fifty cents (\$7.50) per patient occupancy day, effective July 1, 2000. The applicable quarterly survey for this period shall be the Division of Aging's December 1999 quarterly survey; *and/*

(H) The NFRA will be seven dollars and thirty cents (\$7.30) per patient occupancy day, effective July 1, 2001. The applicable quarterly survey for this period shall be the Division of Aging's December 2000 quarterly survey; *and*

(I) The NFRA will be eight dollars and forty-two cents (\$8.42) per patient occupancy day, effective July 1, 2003. The applicable quarterly survey for this period shall be the Department of Health and Senior Services' December 2002 quarterly survey.

AUTHORITY: sections 198.401, 198.403, 198.406, 198.409, 198.412, 198.416, 198.418, 198.421, 198.424, 198.427, 198.431, 198.433, 198.436 and 208.201, RSMo 2000, and 198.439, RSMo Supp. 2002. Emergency rule filed Dec. 21, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 21, 1995, effective May 1, 1995, expired Aug. 28, 1995. Original rule filed Dec. 15, 1994, effective July 30, 1995. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 22, 2003, effective Oct. 1, 2003, expires March 28, 2004. A proposed amendment covering this same material is published in this issue of the Missouri Register.

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo Supp. 2003.

EXECUTIVE ORDER 03-17

WHEREAS, the State of Missouri recognizes that every Missouri citizen has the right to live in a safe, decent and affordable home; and

WHEREAS, the number of Missourians experiencing homelessness continues to increase; and

WHEREAS, the State of Missouri recognizes that any Missourian experiencing homelessness is unacceptable; and

WHEREAS, federal McKinney-Vento Act monies to develop housing programs to alleviate homelessness are available contingent upon the development of a State Plan, per 42 USC 11362, which provides: "housing programs must be evaluated on the basis of their effectiveness in reducing homelessness, transitioning individuals to permanent housing and self-sufficiency, and creating an adequate plan to discharge homeless persons to and from mainstream service systems"; and

WHEREAS, a state plan to address the causes of homelessness in Missouri is needed; and

WHEREAS, all Missourians will benefit from the formulation of a State Plan to End Chronic Homelessness.

NOW, THEREFORE, I, Bob Holden, Governor of the State of Missouri, by the power vested in me by the Laws and Constitution of the State of Missouri, do hereby order and direct the creation of the Governor's Committee to End Chronic Homelessness.

The purpose of the Governor's Committee to End Chronic Homelessness is to develop a plan that will establish strategies to promote public and private coordination and collaboration, evaluate and reallocate resources, remove barriers to access of housing and services, and promote and support activities that prevent homelessness. The Governor's Committee to End Homelessness will work with the other Continuum of Care committees in the state to integrate and coordinate their local plans with the State Plan to End Chronic Homelessness.

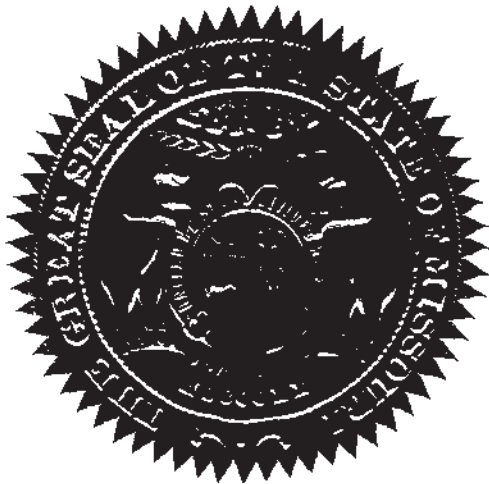
The Governor's Committee to End Homelessness shall be composed of no more than 20 members appointed by the Governor. Membership shall include at least two members of the General Assembly, one from each political party, and at least one representative from each of the following state agencies: Department of Elementary and Secondary Education, Department of Corrections, Department of Mental Health, Department of Health and Senior Services, Department of Economic Development, Division of Youth Services, Division of Workforce Development, Missouri Housing Development Commission and Department of Social Services. The committee shall also include other representatives who are familiar with the challenges of the homeless; including representatives of the faith based community, community action agencies, non-profit organizations, and local and/or federal governmental agencies.

The members of the Governor's Committee to End Chronic Homelessness shall serve at the pleasure of the Governor, and shall serve without compensation, except that members may be reimbursed for reasonable and necessary expenses arising from the Committee's activities or business. Such expenses shall be paid by the Department that incurs the expense.

The Governor's Committee to End Homelessness shall make an annual report of recommendations and strategies for implementing such recommendations to the Governor, the Speaker of the House of Representatives, and the President Pro Tem of the Senate. Such report shall be submitted by November 1st of each year beginning in 2004. The Committee may submit such interim reports as are necessary to keep the public informed of its progress.

The Governor's Committee to End Chronic Homelessness shall convene no later than November 3, 2003.

This Executive Order shall expire on December 31, 2012, unless reauthorized for by a later Executive Order.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson on this 8th day of October, 2003.


Bob Holden
Governor

ATTEST:


Matt Blunt
Secretary of State

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbolology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety (90)-day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 3—Filing and Reporting Requirements

PROPOSED RULE

4 CSR 240-3.265 Natural Gas Utility Petitions for Infrastructure System Replacement Surcharges

PURPOSE: This rule sets forth the definitions, parameters and procedures relevant to the filing and processing of petitions pertaining to an infrastructure system replacement surcharge (ISRS), including the information that a natural gas utility must provide when it files a petition and associated rate schedules to establish, change or reconcile an ISRS.

(1) As used in this rule, the following terms mean:

(A) Appropriate pretax revenues—the revenues necessary to:

1. Produce net operating income equal to the natural gas utility's weighted cost of capital multiplied by the net original cost of eligible infrastructure system replacements, including recognition of accumulated deferred income taxes and accumulated depreciation associated with eligible infrastructure system replacements that are included in a currently effective infrastructure system replacement surcharge (ISRS);

2. Recover state, federal, and local income or excise taxes applicable to such income; and

3. Recover all other ISRS costs;

(B) Eligible infrastructure system replacements—natural gas utility plant projects that:

1. Replace or extend the useful life of existing infrastructure;

2. Are in service and used and useful;

3. Do not increase revenues by directly connecting the infrastructure replacement to new customers; and

4. Were not included in the natural gas utility's rate base in its most recent general rate case;

(C) Natural gas utility—a gas corporation as defined in section 386.020, RSMo;

(D) ISRS—infrastructure system replacement surcharge;

(E) ISRS costs—depreciation expenses, and property taxes that will be due within twelve (12) months of the ISRS filing;

(F) ISRS revenues—revenues produced through an ISRS, exclusive of revenues from all other rates and charges;

(G) Natural gas utility plant projects—projects that consist only of the following:

1. Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with state or federal safety requirements as replacements for existing facilities that have worn out or are in deteriorated condition;

2. Main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects extending the useful life, or enhancing the integrity of pipeline system components undertaken to comply with state or federal safety requirements; and

3. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States, this state, a political subdivision of this state or another entity having the power of eminent domain; provided that the costs related to such projects have not been reimbursed to the natural gas utility.

(2) Pursuant to the provisions of this rule and sections 393.1009 to 393.1015, RSMo, a natural gas utility may file a petition and proposed rate schedules with the commission to establish or change ISRS rate schedules that will allow for the adjustment of its rates and charges to provide for the recovery of costs for eligible infrastructure system replacements; provided that the ISRS, on an annualized basis, must produce ISRS revenues of at least the lesser of one-half of one percent (1/2%) of the natural gas utility's base revenue level approved by the commission in the natural gas utility's most recent general rate case proceeding or one (1) million dollars, but not in excess of ten percent (10%) of the subject utility's base revenue level approved by the commission in the utility's most recent general rate proceeding.

(3) An ISRS, and any future changes thereto, shall be calculated and implemented in accordance with the provisions of this rule and sections 393.1009 to 393.1015, RSMo.

(4) ISRS revenues shall be subject to refund based upon a finding and order of the commission, to the extent provided in subsections (5) and (8) of section 393.1015, RSMo.

(5) The commission shall not approve an ISRS for a natural gas utility that has not had a general rate proceeding decided or dismissed by issuance of a commission order within the past three (3) years,

unless that utility has filed for or is the subject of a new general rate proceeding.

(6) In no event shall a natural gas utility collect an ISRS for a period exceeding three (3) years unless it has filed for or is the subject of a new general rate proceeding; provided that the ISRS may be collected until the effective date of new rate schedules established as a result of the new general rate proceeding, or until the subject general rate proceeding is otherwise decided or dismissed by issuance of a commission order without new rates being established.

(7) Upon the filing of a petition seeking to establish or change an ISRS, the commission will provide notice of the filing.

(8) The natural gas utility shall provide the following notices to its customers:

(A) An initial, one (1)-time notice to all potentially affected customers, such notice being sent to customers no later than when customers will receive their first bill that includes an ISRS, explaining the subject utility's infrastructure system replacement program, explaining how it will calculate its ISRS, explaining how its ISRS will be applied to its various customer classes and identifying the statutory authority under which it is implementing its ISRS;

(B) An annual notice to affected customers each year that an ISRS is in effect explaining the continuation of its infrastructure system replacement program and the resulting ISRS; and

(C) A line-item surcharge description on all affected customer bills, which will identify the existence and amount of the ISRS on the bills.

(9) Within twenty (20) days of the natural gas utility's filing of a petition to establish an ISRS, the subject utility shall submit the following to the commission for approval:

(A) An example of the initial, one (1)-time notice required by subsection (8)(A) of this rule;

(B) An example of the annual notice required by subsection (8)(B) of this rule; and

(C) An example customer bill showing how the ISRS will be separately identified on affected customers' bills in accordance with subsection (8)(C) of this rule.

(10) When a natural gas utility files a petition pursuant to the provisions of this rule, the commission shall conduct an examination of the proposed ISRS.

(11) The staff of the commission may examine information of the natural gas utility to confirm that the underlying costs are in accordance with the provisions of this rule and sections 393.1009 to 393.1015, RSMo, and to confirm proper calculation of the proposed ISRS, and may submit a report regarding its examination to the commission not later than sixty (60) days after the natural gas utility files its petition. The staff shall not examine any other revenue requirement or ratemaking issues in its consideration of the petition or associated proposed rate schedules.

(12) The commission may hold a hearing on the petition and the associated proposed rate schedules and shall issue an order to become effective not later than one hundred twenty (120) days after the natural gas utility files the petition.

(13) If the commission finds that a petition complies with the requirements of this rule and sections 393.1009 to 393.1015, RSMo, the commission shall enter an order authorizing the natural gas utility to impose an ISRS that is sufficient to recover appropriate pretax revenues, as determined by the commission.

(14) A natural gas utility may effectuate a change in an ISRS no more often than two (2) times during every twelve (12)-month period, with the first such period beginning on the effective date of the rate

schedules that establish an initial ISRS. For the purposes of this section, an initial ISRS is the first ISRS granted to the subject utility or an ISRS established after an ISRS is reset to zero pursuant to the provisions of section (16) of this rule.

(15) At the end of each twelve (12)-month period that an ISRS is in effect, the natural gas utility shall reconcile the differences between the revenues resulting from the ISRS and the appropriate pretax revenues as found by the commission for that period and shall submit the reconciliation and proposed ISRS rate schedule revisions to the commission for approval to recover or refund the difference, as appropriate.

(16) A natural gas utility that has implemented an ISRS shall file revised ISRS rate schedules to reset the ISRS to zero when new base rates and charges become effective following a commission order establishing customer rates in a general rate proceeding that incorporates eligible costs previously reflected in an ISRS into the subject utility's base rates.

(17) Upon the inclusion of eligible costs previously reflected in an ISRS into a natural gas utility's base rates, the subject utility shall immediately thereafter reconcile any previously unreconciled ISRS revenues as necessary to ensure that revenues resulting from the ISRS match, as closely as possible, the appropriate pretax revenues as found by the commission for that period.

(18) At the time that a natural gas utility files a petition with the commission seeking to establish, change or reconcile an ISRS, it shall submit proposed ISRS rate schedules and its supporting documentation regarding the calculation of the proposed ISRS with the petition, and shall serve the office of the public counsel with a copy of its petition, its proposed rate schedules and its supporting documentation. The subject utility's supporting documentation shall include workpapers showing the calculation of the proposed ISRS, and shall include, at a minimum, the following information:

(A) The state, federal, and local income or excise tax rates used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those tax rates;

(B) The regulatory capital structure used in calculating the proposed ISRS, and an explanation of the source of and the basis for using that capital structure;

(C) The cost rates for debt and preferred stock used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those cost rates;

(D) The cost of common equity used in calculating the proposed ISRS, and an explanation of the source of and the basis for using that equity cost;

(E) The property tax rates used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those tax rates;

(F) The depreciation rates used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those depreciation rates;

(G) An explanation of how long any infrastructure that was replaced associated with the ISRS had been installed when it was removed or abandoned;

(H) The applicable customer class billing units used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those billing units;

(I) An explanation of how the proposed ISRS is being proportioned between affected customer classes, if applicable;

(J) An explanation of the efforts of the natural gas utility to quantify and to seek reimbursement of any costs incurred for relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United

States, this state, a political subdivision of this state, or another entity having the power of eminent domain, which could offset the requested ISRS revenues;

(K) An explanation of how the infrastructure replacement projects associated with the ISRS are being funded, including the amount of any debt and the interest rate on that debt;

(L) An explanation of the request for proposal (RFP) process, or the reasons for not using an RFP process, used to establish what entity performed the infrastructure replacement projects associated with the proposed ISRS;

(M) An explanation of how the infrastructure replacement projects associated with the ISRS do not increase revenues by increasing pipeline capacity for service of, or interconnection of, new customers;

(N) An explanation of when the infrastructure replacement projects associated with the ISRS were completed and became used and useful;

(O) For each project for which recovery is sought, the net original cost of the infrastructure system replacements (total cost less net book value of any related facility retirements), the amount of related ISRS costs that are eligible for recovery during the period in which the ISRS will be in effect, and a breakdown of those costs identifying which of the following project categories apply and the specific requirements being satisfied by the infrastructure replacements for each:

1. Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with state safety requirements;

2. Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with federal safety requirements;

3. Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to replace existing facilities that have worn out or are in deteriorated condition;

4. Main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects undertaken to comply with state safety requirements;

5. Main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects undertaken to comply with federal safety requirements;

6. Main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects extending the useful life, or enhancing the integrity of pipeline system components;

7. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States;

8. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of this state;

9. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of a political subdivision of this state; and

10. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of an entity other than the United States, this state, or a political subdivision of this state, having the power of eminent domain;

(P) For each project for which recovery is sought, the commission order, if any, requiring the project; a description of the project; the location of the project; what portions of the project are completed, used and useful; what portions of the project are still to be completed; and the beginning and planned end date of the project.

(19) In addition to the information required by section (18) of this rule, the natural gas utility shall also provide the following information when it files a petition with the commission seeking to establish, change or reconcile an ISRS:

(A) A description of all information posted on the subject utility's website regarding the infrastructure system replacement surcharge and related infrastructure system replacement projects; and

(B) A description of all instructions provided to personnel at the subject utility's call center regarding how those personnel should respond to calls pertaining to the ISRS.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000, and 393.1015.11, RSMo Supp. 2003. Original rule filed Sept. 19, 2003.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule is expected to cost private entities approximately three hundred twenty-nine thousand, two hundred thirty dollars (\$329,230) in the first year, and one hundred thirty-eight thousand, six hundred fifty dollars (\$138,650) each year thereafter, for the life of the rule. These costs may vary with inflation. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before December 4, 2003, and should include a reference to Commission Case No. GX-2004-0090. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.state.mo.us/efis.asp>>. A public hearing regarding this proposed rule is scheduled for December 10, 2003, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

**FISCAL NOTE
PRIVATE COST****I. RULE NUMBER**

Rule Number and Name:	4 CSR 240-3.265 Natural Gas Utility Petitions for Infrastructure System Replacement Surcharges
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Seven (7) Natural Gas Utilities	Missouri Public Service Commission Regulated Natural Gas Utilities	\$197,177 to \$202,177 per year over the first 3 years of the rule.

III. WORKSHEET

Utility	Initial Implementation Cost	Ongoing Annual Cost
Laclede Gas Company	\$80,000 plus \$75,000	\$6,400 plus \$2,000
Missouri Gas Energy	\$50,000 plus \$6,000	\$50,000 for multi-page bill plus \$3,000
AmerenUE	\$40,000 plus \$2,750, \$1,100 & \$880	\$40,000
Aquila MPS and L&P	\$1,000 Initially & Minimal After That	\$1,000
Atmos Energy	\$35,000	\$35,000
Southern Missouri Gas	\$15,000 to \$30,000 (includes yr 2 and 3)	In Initial Implementation Cost
Fidelity Natural Gas	\$7,500	\$1,250

Totals - Low Range	\$314,230	\$138,650
Totals - High Range	\$329,230	\$138,650

IV. ASSUMPTIONS

The conclusions in this fiscal note are based on letter and e-mail responses received from the affected business entities identified above. The responding entities generally noted that they may have additional cost associated with adoption of the proposed rule but they did not know the level of these additional costs at the time they provided the responses used in this fiscal note. The dollar amounts in section III above detail initial implementation cost and ongoing annual cost. The total dollar amounts for compliance with the rule in the first three (3) years are added together and divided by three (3) to arrive at the dollar amounts given in section II above.

Proposed Rule 3.265 - Natural Gas ISRS Private Cost Estimate

Utility	Initial Implementation Cost	Ongoing Annual Cost
Laclede Gas Company	\$80,000 plus \$75,000	\$6,400 plus \$2,000
Missouri Gas Energy	\$50,000 plus \$6,000	\$50,000 for multi-page bill plus \$3,000
AmerenUE	\$40,000 plus \$2,750, \$1,100 & \$880	\$40,000
Aquila MPS and L&P	\$1,000 Initially & Minimal After That	\$1,000
Atmos Energy	\$35,000	\$35,000
Southern Missouri Gas	\$15,000 to \$30,000 (includes yr 2 and 3)	In Initial Implementation Cost
Fidelity Natural Gas	\$7,500	\$1,250
Totals - Low Range	\$314,230	\$138,650
Totals - High Range	\$329,230	\$138,650

165000	8400
56000	53000
44730	40000
1000	1000
35000	35000
15000	0
7500	1250
155000	8400
56000	53000
44730	40000
1000	1000
35000	35000
15000	0
7500	1250

171800	\$57,267
162000	\$54,000
124730	\$41,577
3000	\$1,000
109000	\$35,000
15000	\$5,000
10000	\$3,333
171800	\$57,267
162000	\$54,000
124730	\$41,577
3000	\$1,000
105000	\$35,000
30000	\$10,000
10000	\$3,333

\$197,177

\$202,177

Rule Number and Name:	4. CSR 240-3.265 Natural Gas Utility Petitions for Infrastructure System Replacement Surcharges.
Type of Rulemaking:	Proposed Rule

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Seven (7) Natural Gas Utilities	Missouri Public Service Commission Regulated Natural Gas Utilities	\$197,177 to \$202,177 per year over the first 3 years of the rule.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements**

PROPOSED RULE

4 CSR 240-3.440 Small Steam Heating Utility Rate Case Procedure

PURPOSE: This rule provides procedures whereby small steam heating utilities may request increases in their annual operating revenues, without the necessity of meeting the filing requirements for a general rate increase request as set forth in 4 CSR 240-3.030.

(1) Notwithstanding any other rule to the contrary, a small steam heating utility serving one hundred (100) or fewer customers (small steam heating utility) may request an increase in its annual operating revenues through the procedures set forth in this rule by filing a letter requesting the change. The request shall not be accompanied by any tariff sheets. The small steam heating utility rate case shall be conducted as follows:

(A) The original letter requesting the change shall be filed with the secretary of the commission and one (1) copy shall be furnished to the public counsel. The letter shall state:

1. The amount of the additional revenue requested;
2. The reason(s) for the proposed change;
3. A statement that all commission annual assessments have been paid in full or are being paid under an installment plan; and
4. A statement that the small steam heating utility's current annual report is on file with the commission;

(B) The small steam heating utility, in writing, shall notify each customer and each provider of gas or electric service in the area of the request for additional revenue and the effect on the typical commercial and industrial customer's bill. The notice shall indicate that customers' responses may be sent to the energy department manager of the commission or the public counsel within thirty (30) days of the date shown on the notice. A draft copy of the notice shall be sent to the energy department manager of the commission for verification of the accuracy of the notice before being sent to the small steam heating utility's customers. A copy of the final notice shall then be sent to the energy department manager of the commission and the public counsel. The commission staff and the public counsel shall exchange copies of customer responses upon their receipt;

(C) Any customer, gas or electric service provider responding within thirty (30) days of the date of the notice shall be entitled to copies of all filings, with the possible exception of any information deemed to be confidential or proprietary, subsequently made in the case and may participate in any conferences or hearings therein;

(D) Upon receipt of the steam heating utility's request, the commission staff shall schedule an investigation of the steam heating utility's operations and an audit of its financial records. The steam heating utility, in compliance with commission rule 4 CSR 240-2.090 Discovery and Prehearing, shall make available the following:

1. All financial records;
2. All billing and sales data; and
3. All customer information;

(E) When the investigation and audit are complete, the commission staff shall notify the steam heating utility and public counsel whether the requested additional revenue is recommended in whole or in part, of the rate design proposal for the increase, and of any recommended operational changes;

(F) If public counsel wishes to conduct an investigation and audit of the steam heating utility, it must do so within the same time period as staff's investigation and audit;

(G) The commission staff, within twenty-one (21) days from the completion of its investigation, shall arrange a conference with the steam heating utility and shall notify the public counsel of the con-

ference prior to the conference, in order to provide the public counsel an opportunity to participate;

(H) If the conference between the commission staff, the steam heating utility and the public counsel results in an agreement concerning additional revenue requirements and any other matters pertaining to the steam heating utility's operations, including responses to customer concerns, the agreement among the commission staff, the steam heating utility and the public counsel shall be reduced to writing. The steam heating utility may then file tariff sheet(s) with an effective date which is not fewer than thirty (30) days after the tariff's issue date and no additional customer notice or local public hearing shall be required, unless otherwise ordered by the commission. The steam heating utility shall file a copy of the agreement with its tariff;

(I) If the conference results in an agreement between the commission staff and the steam heating utility only, the steam heating utility at this time shall file the necessary tariff sheet(s) with the commission in accordance with the agreement. The tariff sheet(s) shall contain an effective date of not fewer than forty-five (45) days from the issue date. The steam heating utility shall notify customers in writing of the proposed rates resulting from the agreement. The notice shall indicate that customers' responses may be sent to the Energy Department Manager of the commission or the public counsel within twenty (20) days of the date shown on the notice. A copy of the notice shall be sent to the secretary of the commission and the public counsel. The commission staff and the public counsel shall exchange copies of the customer responses upon their receipt. The public counsel shall file a pleading indicating its agreement or disagreement with the tariff sheet(s) within twenty-five (25) days of the date the tariff sheet(s) is filed, unless a public hearing is requested;

(J) A request for a local public hearing may be filed after the tariff sheet(s) is filed by the steam heating utility. The request shall be filed within twenty (20) days of the filing of the tariff sheet(s) by the steam heating utility. Public counsel shall file a pleading indicating agreement or disagreement with the tariff sheet(s) within seven (7) days after the local public hearing;

(K) An agreement must be reached and tariff sheet(s) filed based upon the agreement within one hundred fifty (150) days from the date the letter initiating the case is filed. This time period may be extended with the consent of the steam heating utility. Written consent for an extension shall be filed; and

(L) If no agreement can be reached between the commission staff and the steam heating utility, the steam heating utility may initiate a standard rate case.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000, and 393.291, RSMo Supp. 2003. Original rule filed Sept. 22, 2003.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before December 4, 2003, and should include a reference to Commission Case No. HX-2004-0082. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.state.mo.us/efis.asp>>. A public hearing regarding this proposed rule is scheduled for December 9, 2003, at 10:00 a.m. in Room 310 of the Governor Office

Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements**

PROPOSED RULE

**4 CSR 240-3.650 Water Utility Petitions for Infrastructure
System Replacement Surcharges**

PURPOSE: This rule sets forth the definitions, parameters and procedures relevant to the filing and processing of petitions pertaining to an infrastructure system replacement surcharge (ISRS), including the information that an eligible water utility must provide when it files a petition and associated rate schedules to establish, change or reconcile an ISRS.

(1) As used in this rule, the following terms mean:

(A) Appropriate pretax revenues—the revenues necessary to:

1. Produce net operating income equal to the eligible water utility's weighted cost of capital multiplied by the net original cost of eligible infrastructure system replacements, including recognition of accumulated deferred income taxes and accumulated depreciation associated with eligible infrastructure system replacements that are included in a currently effective infrastructure system replacement surcharge (ISRS);

2. Recover state, federal, and local income or excise taxes applicable to such income; and

3. Recover all other ISRS costs;

(B) Eligible infrastructure system replacements—water utility plant projects that:

1. Replace or extend the useful life of existing infrastructure;

2. Are in service and used and useful;

3. Do not increase revenues by directly connecting the infrastructure replacement to new customers;

4. Were not included in the eligible water utility's rate base in its most recent general rate case; and

5. Were made in a county with a charter form of government and with more than one (1) million inhabitants;

(C) Eligible water utility—a water corporation as defined in section 386.020(58), RSMo, that provides service to more than ten thousand (10,000) customers in a county with a charter form of government and with more than one (1) million inhabitants;

(D) ISRS—infrastructure system replacement surcharge;

(E) ISRS costs—depreciation expenses and property taxes that will be due within twelve (12) months of the ISRS filing;

(F) ISRS revenues—revenues produced through an ISRS, exclusive of revenues from all other rates and charges;

(G) Water utility plant projects—projects that consist only of the following:

1. Mains, and associated valves and hydrants, installed as replacements for existing facilities that have worn out or are in deteriorated condition;

2. Main cleaning and relining projects; and

3. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States, this state, a political sub-

division of this state or another entity having the power of eminent domain; provided that the costs related to such projects have not been reimbursed to the eligible water utility.

(2) Pursuant to the provisions of this rule and sections 393.1000 to 393.1006, RSMo, an eligible water utility may file a petition with the commission to establish or change ISRS rate schedules that will allow for the adjustment of its rates and charges to provide for the recovery of costs for eligible infrastructure system replacements; provided that an ISRS, on an annualized basis, must produce ISRS revenues of at least one (1) million dollars but not in excess of ten percent (10%) of the subject utility's base revenue level approved by the commission in the utility's most recent general rate proceeding.

(3) An ISRS, and any future changes thereto, shall be calculated and implemented in accordance with the provisions of this rule and sections 393.1000 to 393.1006, RSMo.

(4) ISRS revenues shall be subject to refund based upon a finding and order of the commission, to the extent provided in subsections 5 and 8 of section 393.1006, RSMo.

(5) The commission shall not approve an ISRS for an eligible water utility that has not had a general rate proceeding decided or dismissed by issuance of a commission order within the past three (3) years, unless that utility has filed for or is the subject of a new general rate proceeding.

(6) In no event shall an eligible water utility collect an ISRS for a period exceeding three (3) years unless it has filed for or is the subject of a new general rate proceeding; provided that the ISRS may be collected until the effective date of new rate schedules established as a result of the new general rate proceeding, or until the subject general rate proceeding is otherwise decided or dismissed by issuance of a commission order without new rates being established.

(7) Upon the filing of a petition seeking to establish or change an ISRS, the commission will provide notice of the filing.

(8) The eligible water utility shall provide the following notices to its customers:

(A) An initial, one (1)-time notice to all potentially affected customers, with such notice to be sent to customers no later than when customers will receive their first bill that includes an ISRS, explaining the subject utility's infrastructure system replacement program, explaining how it will calculate its ISRS, explaining how its ISRS will be applied to its various customer classes and identifying the statutory authority under which it is implementing its ISRS;

(B) An annual notice to affected customers each year that an ISRS is in effect explaining the continuation of its infrastructure system replacement program and the resulting ISRS; and

(C) A line-item surcharge description on all affected customer bills, which will identify the existence and amount of the ISRS on the bills.

(9) Within twenty (20) days of the eligible water utility's filing of a petition to establish an ISRS, the subject utility shall submit the following to the commission for approval:

(A) An example of the initial, one (1)-time notice required by subsection (8)(A) of this rule;

(B) An example of the annual notice required by subsection (8)(B) of this rule; and

(C) An example customer bill showing how the ISRS will be separately identified on affected customers' bills in accordance with subsection (8)(C) of this rule.

(10) When an eligible water utility files a petition pursuant to the provisions of this rule, the commission shall conduct an examination of the proposed ISRS.

(11) The staff of the commission may examine information of the eligible water utility to confirm that the underlying costs are in accordance with the provisions of this rule and sections 393.1000 to 393.1006, RSMo, and to confirm proper calculation of the proposed ISRS, and may submit a report regarding its examination to the commission not later than sixty (60) days after the eligible water utility files its petition. The staff shall not examine any other revenue requirement or ratemaking issues in its consideration of the petition or associated proposed rate schedules.

(12) The commission may hold a hearing on the petition and the associated proposed rate schedules, and shall issue an order to become effective not later than one hundred twenty (120) days after the eligible water utility files the petition.

(13) If the commission finds that a petition complies with the requirements of this rule and sections 393.1000 to 393.1006, RSMo, the commission shall enter an order authorizing the eligible water utility to impose an ISRS that is sufficient to recover appropriate pretax revenues, as determined by the commission.

(14) An eligible water utility may effectuate a change in an ISRS no more often than two (2) times during every twelve (12)-month period, with the first such period beginning on the effective date of the rate schedules that establish an initial ISRS. For the purposes of this section, an initial ISRS is the first ISRS granted to the subject utility or an ISRS established after an ISRS is reset to zero pursuant to the provisions of section (16) of this rule.

(15) At the end of each twelve (12)-month period that an ISRS is in effect, the eligible water utility shall reconcile the differences between the revenues resulting from the ISRS and the appropriate pretax revenues as found by the commission for that period, and shall submit the reconciliation and proposed ISRS rate schedule revisions to the commission for approval to recover or refund the difference, as appropriate.

(16) An eligible water utility that has implemented an ISRS shall file revised ISRS rate schedules to reset the ISRS to zero when new base rates and charges become effective following a commission order establishing customer rates in a general rate proceeding that incorporates eligible costs previously reflected in an ISRS into the subject utility's base rates.

(17) Upon the inclusion of eligible costs previously reflected in an ISRS in an eligible water utility's base rates, the subject utility shall immediately thereafter reconcile any previously unreconciled ISRS revenues as necessary to ensure that revenues resulting from the ISRS match, as closely as possible, the appropriate pretax revenues as found by the commission for that period.

(18) At the time that an eligible water utility files a petition with the commission seeking to establish, change or reconcile an ISRS, it shall submit proposed ISRS rate schedules and its supporting documentation regarding the calculation of the proposed ISRS with the petition, and shall serve the office of the public counsel with a copy of its petition, its proposed rate schedules and its supporting documentation. The subject utility's supporting documentation shall include workpapers showing the calculation of the proposed ISRS, and shall include, at a minimum, the following information:

(A) The state, federal, and local income or excise tax rates used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those tax rates;

(B) The regulatory capital structure used in calculating the proposed ISRS, and an explanation of the source of and the basis for using that capital structure;

(C) The cost rates for debt and preferred stock used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those cost rates;

(D) The cost of common equity used in calculating the proposed ISRS, and an explanation of the source of and the basis for using that equity cost;

(E) The property tax rates used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those tax rates;

(F) The depreciation rates used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those depreciation rates;

(G) The net original cost of the infrastructure system replacements (total cost less net book value of any related facility retirements), and the amount of related ISRS costs, that are eligible for recovery during the period in which the ISRS will be in effect, and a breakdown of those eligible replacements identified by work order or cost center for each of the following project categories:

1. Mains, and associated valves and hydrants, installed as replacements for existing facilities that have worn out or are in deteriorated condition;

2. Main cleaning and relining projects;

3. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States;

4. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of this state;

5. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of a political subdivision of this state; and

6. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of an entity other than the United States, this state or a political subdivision of this state, having the power of eminent domain;

(H) The applicable customer class billing determinants used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those billing determinants;

(I) An explanation of how the customers to whom the proposed ISRS will apply are benefiting from the water utility plant projects that will be recovered through the ISRS;

(J) An explanation of how the proposed ISRS is being prorated between affected customer classes, if applicable;

(K) An explanation of how the proposed ISRS is being applied in a manner consistent with the customer class cost-of-service study recognized by the commission in the subject utility's most recent general rate proceeding, if applicable;

(L) An explanation of how the proposed ISRS is being applied consistent with the rate design methodology utilized to develop the subject utility's rates resulting from its most recent general rate proceeding;

(M) An explanation of the efforts to quantify and seek reimbursement for any costs incurred for facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States, this state, a political subdivision of this state or another entity having the power of eminent domain, which could offset the requested ISRS revenues; and

(N) An explanation of how the projects associated with the ISRS are being funded, including the amount of any short-term debt and the interest rate on that debt.

(19) In addition to the information required by section (18) of this rule, the eligible water utility shall also provide the following information when it files a petition with the commission seeking to establish, change or reconcile an ISRS:

(A) A description of all information posted on the subject utility's website regarding the infrastructure system replacement surcharge and related infrastructure system replacement projects; and

(B) A description of all instructions provided to personnel at the subject utility's call center regarding how those personnel should respond to calls pertaining to the ISRS.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000 and 393.1006.10, RSMo Supp. 2003. Original rule filed Sept. 19, 2003.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule is estimated to have an initial cost of ten thousand dollars (\$10,000) and an annual on-going cost of one hundred ninety-five thousand dollars (\$195,000) for the affected private entity.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before December 4, 2003, and should include a reference to Commission Case No. WX-2004-0093. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.state.mo.us/efis.asp>>. A public hearing regarding this proposed rule is scheduled for December 11, 2003, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

**FISCAL NOTE
PRIVATE COST****I. RULE NUMBER**

Rule Number and Name:	4 CSR 240-3.650 Water Utility Petitions for Infrastructure System Replacement Surcharges
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
One water utility	Missouri Public Service Commission-regulated water utilities in St. Louis County	\$198,333 per year over the first three years of the rule.

III. WORKSHEET

Utility	Initial Implementation Cost	Ongoing Annual Cost
Missouri-American Water Company	\$10,000	\$195,000

IV. ASSUMPTIONS

The conclusions in this fiscal note are based on a letter response received from Missouri-American Water Company, which is the only business entity that will be affected by the rule. Missouri-American's response and this fiscal note assume that Missouri-American will make two ISRS filings per year, and that it will notify each of its 335,000 St. Louis County customers of the filing by way of a separate mailing to the customers. The dollar amounts in section III above detail initial implementation cost and ongoing annual cost. The total dollar amounts for compliance with the rule in the first three (3) years are added together and divided by three (3) to arrive at the dollar amounts given in section II above.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling
and Reference Methods and Air Pollution Control
Regulations for the Entire State of Missouri**

PROPOSED AMENDMENT

10 CSR 10-6.260 Restriction of Emission of Sulfur Compounds.

The commission proposes to amend original sections (1), (2) and (6); amend original subsections (3)(C), (5)(B) and (5)(C); and renumber and format the rule text from six into five sections. If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency to replace the current rule in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, www.dnr.state.mo.us/regs/regagenda.htm.

PURPOSE: This rule establishes the maximum allowable concentration of sulfur compounds in source emissions and in the ambient air. This amendment updates emission limits and references to regulations, changes the rule organization format, and brings the rule up-to-date. The rulemaking also clarifies applicability of sources subject to New Source Performance Standards and this rule, and includes an exemption for combustion equipment that produces less than one hundred fifty (150) pounds per day of any air contaminant. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is a letter from the U.S. Environmental Protection Agency, Region VII, dated March 20, 2003, requesting that changes be made to correct erroneous data and to bring the rule up-to-date with changes in circumstances for regulated sources and rule comment forms that describe errors and/or seek clarification on specific issues.

(1) Applicability.

(A) This rule applies to any installation that is an emission source of sulfur compounds, except where a provision of 10 CSR 10-6.070 with an applicable sulfur compound emission limit applies.

(B) [Section (3)] Subsection (3)(A) of this rule shall apply to all sulfur compound emissions except from—

1. Indirect heating sources; and
2. Existing lead smelting and/or refining sources[.]; or

3. Combustion equipment that—

A. Emits only combustion products;

B. Produces less than one hundred fifty (150) pounds per day of any air contaminant; and

C. Has a maximum rated capacity of—

(I) Less than ten (10) million British thermal units (Btus) per hour heat input by using exclusively natural or liquefied petroleum gas, or any combination of these; or

(II) Less than one (1) million Btus per hour heat input.

(C) [Section (4)] Subsection (3)(B) of this rule restricts sulfur dioxide (SO₂) concentrations in the ambient air.

(D) [Section (5)] Subsection (3)(C) of this rule restricts sulfur dioxide emissions from indirect heating sources greater than three hundred fifty thousand British thermal units (350,000 [BTUs] Btus) per hour actual heat input.

(E) [Section (6)] Subsection (3)(D) of this rule shall apply to sulfur compound emissions from existing lead smelting and/or refining sources or related activities.

(2) Definitions. Definitions of certain terms [used] specified in this rule may be found in 10 CSR 10-6.020 [Definitions and Common Reference Tables].

(3) General Provisions.

[[3]](A) Restriction of Concentration of Sulfur Compounds in Emissions.

[[A]]1. Existing [S/sources]. No person shall cause or permit the emission into the atmosphere gases containing more than two thousand parts per million by volume (2,000 ppmv) of sulfur dioxide or more than seventy milligrams per cubic meter (70 mg/cubic meter) of sulfuric acid or sulfur trioxide or any combination of those gases averaged on any consecutive three (3)-hour time period.

[[B]]2. New [S/sources]. No person shall cause or permit the emission into the atmosphere gases containing more than five hundred parts per million by volume (500 ppmv) of sulfur dioxide or more than thirty-five milligrams per cubic meter (35 mg/cubic meter) of sulfuric acid or sulfur trioxide or any combination of those gases averaged on any consecutive three (3)-hour time period.

[[C]]3. Compliance with [section (3)] subsection (3)(A) of this rule shall be determined by source testing as specified in subsection (5)(A) of this rule. [Source testing to determine compliance shall be done as specified in 10 CSR 10-6.030(6).]

[[D]]4. Other methods approved by the staff director in advance may be used.

[[4]](B) Restriction of Concentration of Sulfur Compounds in the Ambient Air. In addition to the limitations specified in [sections (3), (5) and (6)] subsections (3)(A), (3)(C) and (3)(D) of this rule, no person shall cause or permit the emission of sulfur compounds from any source which causes or contributes to concentrations exceeding those specified in 10 CSR 10-6.010 Ambient Air Quality Standards. Except as may be specified elsewhere in this rule, the methods for measuring ambient sulfur compound concentrations are specified in 10 CSR 10-6.040.

[[5]](C) Restriction of Emission of Sulfur Dioxide From Indirect Heating Sources.

[[A]]1. [Section (5)] Subsection (3)(C) of this rule applies to installations in which fuel is burned for the primary purpose of producing steam, hot water or hot air or other indirect heating of liquids, gases or solids and in the course of doing so the products of combustion do not come into direct contact with process materials. When any products or by-products of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitations shall apply.

[[B]]2. Indirect heating sources located in Missouri, other than in Franklin, Jefferson, St. Louis, St. Charles Counties or City of St. Louis.

[1.]A. No person shall cause or allow emissions of sulfur dioxide into the atmosphere from any indirect heating source in excess of eight pounds (8 lbs.) of sulfur dioxide per million [BTUs] Btus actual heat input averaged on any consecutive three (3)-hour time period unless that source is listed in Table I or subject to a provision of 10 CSR 10-6.070 New Source Performance Regulations with an applicable sulfur compound emission limit.

[2.]B. The following existing indirect heating sources listed in Table I shall limit their average sulfur emissions into the atmosphere to the allowable amount of sulfur dioxide per million [BTUs] Btus of actual heat input averaged on any consecutive three (3)-hour basis.

Table [1] I

<u>Facility</u>	<u>Averaging Time</u>	<u>Emission Rate per [u]Unit (Pounds Sulfur Dioxide Per Million [BTUs] Btus)</u>
Associated Electric Cooperative—New Madrid	3 hours	10.0
Associated Electric Cooperative—Thomas Hill	3 hours	8.0
Central Electric Power Cooperative—Chamais	3 hours	6.7
City Utilities—James River Plant	3 hours	<i>[9.2] (Units 1–4) 1.4 (Unit 5) 2.0</i>
Empire District Electric Company—Asbury Station	3 hours	12.0
Independence Power and Light—Blue Valley Station	3 hours	6.3
Trigen—Grand Ave. Plant	3 hours	<i>[9.0*] 7.1</i>
Kansas City Power & Light—Hawthorn Plant	3 hours	<i>[6.1*] 1.3</i>
Kansas City Power & Light—Montrose Station	3 hours	<i>[12.9*] 1.3</i>
Missouri Public Service Company—Sibley Plant	3 hours	9.0
St. Joseph Light & Power—Lake Road Plant	3 hours	<i>[8.6] (Boilers 1, 2, and 4) 0.0524 (Boiler 3) 0.0006 (Boiler 5) 1.3490 (Combustion Turbines 5, 6, and 7) 0.0511</i>
University of Missouri—Columbia	3 hours	8.0

*[*Grand Ave. Hawthorn, and Montrose Plants have State Enforceable Agreements to limit their sulfur dioxide emission rates such that their emissions shall not exceed 7.1 pounds. 1.3 pounds, and 1.3 pounds SO₂ per million BTU heat input, respectively.]*

[3.]/C. Compliance with [subsection (5)(B)] paragraph (3)(C)2. of this rule shall be determined by source testing as specified in subsection (5)(B) of this rule. [The heating value of the fuel shall be determined as specified in 10 CSR 10-6.040(2). Source testing to determine compliance shall be done as specified in 10 CSR 10-6.030(6). The actual heat input shall be determined by multiplying the heating value of the fuel by the amount of fuel burned during the source test period.]

[4.]/D. Other methods approved by the staff director in advance may be used.

[5.]/E. Owners or operators of sources and installations subject to [subsection (5)(B)] paragraph (3)(C)2. of this [regulation] rule shall furnish the director such data as s/he may reasonably require to determine whether compliance is being met.

[(C)/3. Indirect heating sources located in Franklin, Jefferson, St. Louis, St. Charles Counties or City of St. Louis.

[1.]/A. Restrictions applicable to installations with a capacity of two thousand (2,000) million or more [BTUs] Btus per hour.

[A.]/(I) No person shall cause or permit the emission of sulfur dioxide to the atmosphere from any installation with a capacity of two thousand (2,000) million or more [BTUs] Btus per hour in an amount greater than two and three-tenths pounds (2.3 lbs.) of sulfur dioxide per million [BTUs] Btus of actual heat input averaged on any consecutive three (3)-hour time period unless that source is listed in [subparagraph (5)(C)1.B.] part (3)(C)3.A.(II) of this rule or is subject to a provision of 10 CSR 10-6.070 New Source Performance Regulations with an applicable sulfur compound emission limit.

[B.]/(II) The following existing installations shall limit their sulfur dioxide emissions into the atmosphere from the combustion of any fuels to the allowable amount of sulfur dioxide per million [BTUs] Btus of actual heat input listed:

Facility	Emission Rate per [u]Unit* (Pounds Sulfur Dioxide Per Million [BTUs] Btus)
[Union Electric] Ameren UE—Labadie Plant	4.8
[Union Electric] Ameren UE— Portage des Sioux Plant	4.8

*Daily average, 00:01 to 24:00

[C.]/(III) Owners or operators of sources and installations subject to [subsection (5)(C)] paragraph (3)(C)3. of this [regulation] rule shall furnish the director such data as s/he may reasonably require to determine whether compliance is being met.

[D.]/(IV) Each source subject to limitations under [paragraph (5)(C)1.] subparagraph (3)(C)3.A. of this rule may emit sulfur dioxide at a rate not to exceed the allowable emission rate by more than twenty percent (20%) for not more than three (3) days in any one (1) month.

[E.]/(V) Compliance with [subparagraph (5)(C)1.B.] part (3)(C)3.A.(II) of this rule shall be demonstrated by sulfur dioxide and either carbon dioxide or oxygen continuous monitoring devices, which devices, within ninety (90) days of the date [subparagraph (5)(C)1.B.] part (3)(C)3.A.(II) of this rule becomes effective (July 12, 1979) as to any source or before January 1, 1982, in the case of [Union Electric] Ameren UE Company's Labadie plant, shall be certified by the owner or operator to be installed and operational in accordance with Performance Specifications 2 and 3, 40 CFR part 60, Appendix B [(1977)]. The devices shall also be operated and maintained in accordance with the procedures and standards set out at 40 CFR 60.13(d) and (e)(2) [(1977)].

[F.]/(VI) Reports shall be as specified in section (4) of this rule.

[(I) The owner or operator of each source subject to paragraph (5)(C)1. shall submit a written report of excess emissions for each calendar quarter to the director within thirty (30) days following the end of the quarter.

[(II) Each quarterly report shall contain the magnitude in pounds per million BTUs of all daily (00:01 to 24:00) averages of sulfur dioxide emissions greater than the emission rate allowed by subparagraph (5)(C)1.B.

[(III) Each report shall identify each period during which the continuous monitoring system was inoperative, except for zero and span checks and the nature of repairs and adjustments performed to make the system operative.

[(IV) Each report shall also contain a statement that no excess emissions occurred during the quarter, except as reported or during periods when the continuous monitoring system was inoperative. Data reduction and conversion procedures shall conform to the provisions of 40 CFR 60.13(h) and 60.45(e) and (f) (as corrected at 42 FR 41122) (1977).

[(V) Each owner or operator required to file quarterly reports under this paragraph and, for a minimum of two (2) years from the date of the quarterly report, shall maintain a file of the following:

(a) All information reported in the quarterly reports;

(b) All other data collected by the continuous monitoring system or necessary to convert the monitoring data to the units of the applicable emission limitation;

(c) All continuous monitoring system performance evaluations;

(d) All continuous monitoring system or monitoring device calibration checks;

(e) Monitoring system, monitoring device and performance testing measurement;

(f) Adjustments and maintenance performed on these systems or devices; and

(g) Files shall be kept available for inspection by the director during regular business hours.]

[2.]/B. Restrictions applicable to installations with a capacity of less than two thousand (2,000) million [BTUs] Btus per hour.

[A.]/(I) During the months of October, November, December, January, February and March of every year, no person shall burn or permit the burning of any coal containing more than two percent (2%) sulfur or of any fuel oil containing more than two percent (2%) sulfur in any installation having a capacity of less than two thousand (2,000) million [BTUs] Btus per hour. Otherwise, no person shall burn or permit the burning of any coal or fuel oil containing more than four percent (4%) sulfur in any installation having a capacity of less than two thousand (2,000) million [BTUs] Btus per hour.

[B.]/(II) [Subparagraph (5)(C)2.A.] Part (3)(C)3.B.(I) of this rule shall not apply to any installation if it can be shown that emissions of sulfur dioxide from the installation into the atmosphere will not exceed two and three-tenths (2.3) pounds per million [BTUs] Btus of heat input to the installation.

[C.]/(III) Owners or operators of sources and installations subject to this section shall furnish the director such data as s/he may reasonably require to determine whether compliance is being met.

[3.]/C. Compliance with [subsection (5)(C)] paragraph (3)(C)3. of this rule shall be determined by source testing as specified in subsection (5)(B) of this rule. [The heating value of the fuel shall be determined as specified in 10 CSR 10-6.040(2). Source testing to determine compliance shall be done as specified in 10 CSR 10-6.030(6). The actual heat input shall be determined by multiplying the heating value of the fuel by the amount of fuel burned during the source test period.]

[4.]/D. Other methods approved by the staff director in advance may be used.

//(6)/(D) Emission of Sulfur Dioxide From Existing Lead Smelters and Refineries.

/(A)/1. Each of the following existing installations listed in Table II engaged in smelting and/or refining lead shall limit its sulfur dioxide emissions from the sources or stacks, as described, to the amount of sulfur dioxide set forth here.

Table II		
Facility	Averaging Time	Emission Limitation (Pounds SO ₂ /Hr)
<i>/ASARCO Incorporated/ Doe Run Company</i> Lead Smelter and Refinery— Glover, Missouri Two stacks:	1 hour test repeated 3 times	
		Sinter machine off-gas stack 20,000
		Blast furnace baghouse stack 1,056
Doe Run Company, Buick Smelter— Boss, Missouri	1 hour test repeated 3 times	8,650
Doe Run Company, Herculaneum Smelter—Herculaneum, Missouri	1 hour test repeated 3 times	20,000

[(B)]2. Compliance with *[subsection (6)(A)] paragraph (3)(D)1. of this rule* shall be determined by source testing *[as referenced in 10 CSR 10-6.030(6),]* as specified in subsection (5)(B) of this rule except that the source testing shall consist of averaging three (3) separate one (1)-hour tests using the applicable testing method.

[(C)]3. Secondary lead smelting installations shall install, calibrate, maintain and operate an SO₂ continuous emission monitoring system, for the purpose of demonstrating compliance status, relative to *[section (3)] subsection (3)(A) of this rule.*

[1.]A. Certification.

[A.](I) The continuous emission monitoring systems shall be certified by the owner or operator in accordance with 40 CFR part 60 Appendix B, Performance Specification 2 and Section 60.13 as is pertinent to SO₂ continuous monitors as adopted by reference in 10 CSR 10-6.070.

[B.](II) The span of the SO₂ continuous monitor shall be set at an SO₂ concentration of one-fifth percent (0.20%) by volume.

[C.](III) For the purpose of the SO₂ continuous monitor performance evaluation, the reference method referred to under the Field Test for Accuracy in Performance Specification 2 shall be Reference Method 6, 10 CSR 10-6.030(6). For this method, the minimum sampling time is twenty (20) minutes and the minimum volume is 0.02 dry standard cubic meter (dscm) for each sample. Samples are taken at sixty (60)-minute intervals and each sample represents a one (1)-hour average.

[2.]B. Reports shall be as specified in section (4) of this rule.

[A. The owner or operator of each source subject to subsection (6)(C) shall submit a written report of excess emissions for each calendar quarter to the director within thirty (30) days following the end of the quarter. The director shall specify a reporting format.

B. Each quarterly report shall contain the magnitude in parts per million of each two (2)-hour arithmetic average of sulfur dioxide emissions greater than the emission rate allowed by section (3).

C. Each report shall identify each period during which the continuous monitoring system was inoperative, except for zero and span checks and the nature of repairs and adjustments performed to make the system operative.

D. Each report also shall contain a statement that no excess emissions occurred during the quarter except as reported or during periods when the continuous monitoring system was inoperative. Data reduction and conversion procedures shall conform to the provisions of 40 CFR 60.13(h) and 60.45(e) and (f).

E. Each owner or operator required to file quarterly reports under this paragraph and for a minimum of two (2) years from the date of the quarterly report, shall maintain a file of the following:

(I) All information reported in the quarterly reports;

(II) All other data collected by the continuous monitoring system or necessary to convert the monitoring data to the units of the applicable emission limitation;

(III) All continuous monitoring system performance evaluations;

(IV) All continuous monitoring system or monitoring device calibration checks;

(V) Monitoring system, monitoring device and performance testing measurements;

(VI) Adjustments and maintenance performed on these systems or device; and

(VII) Files shall be kept available for inspection by the staff director during regular business hours.

3. Compliance schedule. Installation and certification of the continuous monitoring systems shall follow the schedule as follows:

A. Submit design and specifications to director December 1986;

B. Installation complete March 1987;

C. Complete performance evaluation for certification May 1987;

D. Submit performance evaluation report May 1987; and

E. Begin regular operation of the continuous monitor and quarterly reporting procedures May 1987.]

[(D)]4. Owners or operators of sources and installations subject to this section shall furnish the director such data as s/he may reasonably require to determine whether compliance is being met.

(4) Reporting and Record Keeping.

(A) The owner or operator of each source subject to subparagraph (3)(C)3.A. and paragraph (3)(D)3. of this rule shall submit a written report of excess emissions for each calendar quarter to the director within thirty (30) days following the end of the quarter. Each report shall:

1. Contain the magnitude of sulfur dioxide emissions as follows:

A. For sources subject to subparagraph (3)(C)3.A. of this rule, the magnitude shall be reported in pounds per million Btus of all daily (00:01 to 24:00) averages of sulfur dioxide emissions greater than the emission rate allowed by part (3)(C)3.A.(II) of this rule; and

B. For sources subject to paragraph (3)(D)3. of this rule, the magnitude shall be reported in parts per million of each two (2)-hour arithmetic average of sulfur dioxide emissions greater than the emission rate allowed by subsection (3)(A) of this rule;

2. Identify each period during which the continuous monitoring system was inoperative, except for zero and span checks and the nature of repairs and adjustments performed to make the system operative; and

3. Contain a statement that no excess emissions occurred during the quarter, except as reported or during periods when the continuous monitoring system was inoperative. Data reduction and conversion procedures shall conform to the provisions of 40 CFR 60.13(h) and 60.45(e) and (f);

(B) Each owner or operator required to file quarterly reports under this section and, for a minimum of two (2) years from the date of the quarterly report, shall maintain a file of the following:

1. All information reported in the quarterly reports;

2. All other data collected by the continuous monitoring system or necessary to convert the monitoring data to the units of the applicable emission limitation;

3. All continuous monitoring system performance evaluations;

4. All continuous monitoring system or monitoring device calibration checks;

5. Monitoring system, monitoring device and performance testing measurements; and

6. Adjustments and maintenance performed on these systems or devices; and

(C) Files shall be kept available for inspection by the director during regular business hours.

(5) Test Methods.

(A) Source testing to determine compliance with sulfur dioxide emission limits shall be done as specified in 10 CSR 10-6.030(6) or by an alternate method described in 40 CFR 60 Appendix A. Source testing to determine compliance with sulfur trioxide and/or sulfuric acid mist emission limits concurrently with sulfur dioxide compliance shall be done as specified in 10 CSR 10-6.030(8).

(B) The heating value of the fuel shall be determined as specified in 10 CSR 10-6.040(2). Source testing to determine compli-

ance shall be done as specified in 10 CSR 10-6.030(6). The actual heat input shall be determined by multiplying the heating value of the fuel by the amount of fuel burned during the source test period.

AUTHORITY: section 643.050, RSMo [Supp. 1995] 2000. Original rule filed Jan. 19, 1996, effective Aug. 30, 1996. Amended: Filed Sept. 29, 2003.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., December 4, 2003. The public hearing will be held at the Governor Office Building, Ballroom #450, 200 Madison Street, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Director, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., December 11, 2003. Written comments shall be sent to Chief, Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 70—Soil and Water Districts Commission
Chapter 5—State Funded Cost-Share Program**

PROPOSED AMENDMENT

10 CSR 70-5.040 Cost-Share Rates and Reimbursement Procedures. The Soil and Water Districts Commission is amending section (1) and removing the form that follows the rule in the *Code of State Regulations*. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is in accordance with the Soil and Water Districts Commission's goal of reducing soil erosion on ninety-five percent (95%) of Missouri's agricultural land to an acceptable level by 2006.

PURPOSE: This amendment will remove the stipulation that state cost-share rates shall not exceed the locally federally funded cost-share rate. By amending the existing rule, the Soil and Water Districts Commission (the commission) will be able to continue providing a seventy-five percent (75%) cost-share rate while the local federal cost-share program will provide a fifty percent (50%) cost-share rate beginning July 1, 2003. This amendment does not represent a change in the percentage of state-cost share rate of seventy-five percent (75%), but, rather, ensures a continuance of the customary practice at the current state-cost share rate of seventy-five percent (75%). Additionally, no additional impact on state funds will be created by this amendment nor will any additional expenditures of General Revenue funds occur as a result of this amendment. An emergency amendment covering this same material was filed on July 9, 2003, effective July 19, 2003 and expires January 14, 2004.

(1) Cost-Share Rates. Cost-share rates shall not exceed seventy-five percent (75%) of the actual approved costs of eligible practices or the incentive rates established annually by the commission for certain management practices which have proven to be effective soil and water conservation methods. *[State cost-share rates shall not*

exceed the local federally funded cost-share rates for corresponding practices nor shall components be included which are not eligible through the local federally funded program, except that special area land treatment project areas are exempt from local federally funded cost-share rate and component limitations of this rule.]

AUTHORITY: sections 278.070(4) and 278.110.8, RSMo 2000 and 278.080.5(9), RSMo [1986] Supp. 2003. Original rule filed Aug. 12, 1980, effective Jan. 1, 1981. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed July 9, 2003, effective July 19, 2003, expires Jan. 14, 2004. Amended: Filed Sept. 23, 2003.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may submit a written statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Sarah E. Fast, Director of Staff, PO Box 176, Jefferson City, MO 65102, (573) 751-4932. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—[Division of Family Services] Family
Support Division
Chapter 19—Energy Assistance**

PROPOSED AMENDMENT

13 CSR 40-19.020 Low Income Home Energy Assistance Program. The Division of Family Services proposes to amend section (3) to reflect changes made in income levels based on federal poverty guidelines.

PURPOSE: This amendment is being made to adjust the monthly income amounts on the LIHEAP Income Ranges Chart.

(3) Primary eligibility requirements for this program are as follows:

(D) Each household must have a monthly income no greater than the specific amounts based on household size as set forth in the Low Income Home Energy Assistance Program (LIHEAP) Income Ranges Chart. If the household size and composition of a LIHEAP applicant household can be matched against an active food stamp case reflecting the same household size and composition, monthly income for LIHEAP will be established by using the monthly income documented in the household's food stamp file.

LIHEAP INCOME RANGES CHART

Monthly Income Amounts

Household Size	Income Range	Income Range	Income Range	Income Range	Income Range
1	\$0-185	\$186-371	\$372-557	\$558-743	\$744-923
2	\$0-249	\$250-499	\$500-749	\$750-999	\$1,000-1,244
3	\$0-288	\$289-577	\$578-866	\$867-1,155	\$1,156-1,439
4	\$0-347	\$348-695	\$696-1,043	\$1,044-1,391	\$1,392-1,735
5	\$0-406	\$407-813	\$814-1,220	\$1,221-1,627	\$1,628-2,030
6	\$0-472	\$473-945	\$946-1,418	\$1,419-1,891	\$1,892-2,359
7	\$0-524	\$525-1,049	\$1,050-1,574	\$1,575-2,099	\$2,100-2,620
8	\$0-583	\$584-1,167	\$1,168-1,751	\$1,752-2,335	\$2,336-2,915
9	\$0-642	\$643-1,285	\$1,286-1,928	\$1,929-2,571	\$2,572-3,210
10	\$0-701	\$702-1,403	\$1,404-2,105	\$2,106-2,807	\$2,808-3,506
11	\$0-760	\$761-1,521	\$1,522-2,282	\$2,283-3,043	\$3,044-3,801
12	\$0-819	\$820-1,639	\$1,640-2,459	\$2,460-3,279	\$3,280-4,096
13	\$0-878	\$879-1,757	\$1,758-2,636	\$2,637-3,515	\$3,516-4,391
14	\$0-937	\$938-1,875	\$1,876-2,813	\$2,814-3,751	\$3,752-4,686
15	\$0-996	\$997-1,993	\$1,994-2,990	\$2,991-3,987	\$3,988-4,981
16	\$0-1,055	\$1,056-2,111	\$2,112-3,167	\$3,168-4,223	\$4,224-5,277
17	\$0-1,114	\$1,115-2,229	\$2,230-3,344	\$3,345-4,459	\$4,460-5,572
18	\$0-1,173	\$1,174-2,347	\$2,348-3,521	\$3,522-4,695	\$4,696-5,867
19	\$0-1,232	\$1,233-2,465	\$2,466-3,698	\$3,699-4,931	\$4,932-6,162
20	\$0-1,291	\$1,292-2,583	\$2,584-3,875	\$3,876-5,167	\$5,168-6,457

LIHEAP INCOME RANGES CHART

Monthly Income Amounts

Household Size	Income Range	Income Range	Income Range	Income Range	Income Range
1	\$0-187	\$188-375	\$376-563	\$564-751	\$752-935
2	\$0-253	\$254-507	\$508-761	\$762-1,015	\$1,016-1,263
3	\$0-318	\$319-637	\$638-956	\$957-1,275	\$1,276-1,590
4	\$0-383	\$384-767	\$768-1,151	\$1,152-1,535	\$1,536-1,917
5	\$0-449	\$450-899	\$900-1,349	\$1,350-1,799	\$1,800-2,244
6	\$0-514	\$515-1,029	\$1,030-1,544	\$1,545-2,059	\$2,060-2,571
7	\$0-580	\$581-1,161	\$1,162-1,742	\$1,743-2,323	\$2,324-2,898
8	\$0-645	\$646-1,291	\$1,292-1,937	\$1,938-2,583	\$2,584-3,225
9	\$0-710	\$711-1,421	\$1,422-2,132	\$2,133-2,843	\$2,844-3,552
10	\$0-776	\$777-1,553	\$1,554-2,330	\$2,331-3,107	\$3,108-3,879
11	\$0-841	\$842-1,683	\$1,684-2,525	\$2,526-3,367	\$3,368-4,206
12	\$0-907	\$908-1,815	\$1,816-2,723	\$2,724-3,631	\$3,632-4,533
13	\$0-972	\$973-1,945	\$1,946-2,918	\$2,919-3,891	\$3,892-4,860
14	\$0-1,038	\$1,039-2,077	\$2,078-3,116	\$3,117-4,155	\$4,156-5,188
15	\$0-1,103	\$1,104-2,207	\$2,208-3,311	\$3,312-4,415	\$4,416-5,515
16	\$0-1,168	\$1,169-2,337	\$2,338-3,506	\$3,507-4,675	\$4,676-5,842
17	\$0-1,234	\$1,235-2,469	\$2,470-3,704	\$3,705-4,939	\$4,940-6,169
18	\$0-1,299	\$1,300-2,599	\$2,600-3,899	\$3,900-5,199	\$5,200-6,496
19	\$0-1,365	\$1,366-2,731	\$2,732-4,097	\$4,098-5,463	\$5,464-6,823
20	\$0-1,430	\$1,431-2,861	\$2,862-4,292	\$4,293-5,723	\$5,724-7,150

AUTHORITY: section 207.020, RSMo 2000. Emergency rule filed Nov. 26, 1980, effective Dec. 6, 1980, expired March 11, 1981. Original rule filed Nov. 26, 1980, effective March 12, 1981. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Sept. 19, 2003, effective Oct. 1, 2003, expires March 28, 2004. Amended: Filed Sept. 19, 2003.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of the Director, Family Support Division, PO Box 88, Jefferson City, MO 65103. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 10—Nursing Home Program

PROPOSED AMENDMENT

13 CSR 70-10.015 Prospective Reimbursement Plan for Nursing Facility Services. The division is amending section (13).

PURPOSE: This amendment provides for nursing facility operations adjustments, a ninety percent (90%) High Volume Grant and a second tier high volume adjustment for SFY 2004.

(13) Adjustments to the Reimbursement Rates. Subject to the limitations prescribed elsewhere in this regulation, a facility's reimbursement rate may be adjusted as described in this section.

(A) Global Per Diem Rate Adjustments. A facility with either an interim rate or a prospective rate may qualify for the global per diem rate adjustments. Global per diem rate adjustments shall be added to the specified cost component ceiling.

1. FY-96 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1995, shall be granted an increase to their per diem effective October 1, 1995, of 4.6% of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1. and the property insurance and property taxes detailed in paragraph (11)(D)3. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of this regulation.

2. FY-97 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1996, shall be granted an increase to their per diem effective October 1, 1996, of 3.7% of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1. and the property insurance and property taxes detailed in paragraph (11)(D)3. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of this regulation.

3. NFRA. Effective October 1, 1996, all facilities with either an interim rate or a prospective rate shall have its per diem adjusted to include the current NFRA as an allowable cost in its reimbursement rate calculation.

4. Minimum wage adjustment. All facilities with either an interim rate or a prospective rate in effect on November 1, 1996, shall be granted an increase to their per diem effective November 1, 1996, of two dollars and forty-five cents (\$2.45) to allow for the change in minimum wage. Utilizing Fiscal Year 1995 cost report data, the total industry hours reported for each payroll category was multiplied by the fifty-cent (50¢) increase, divided by the patient days for the facilities reporting hours for that payroll category and factored up by 8.67% to account for the related increase to payroll taxes. This calculation excludes the director of nursing, the administrator and assistant administrator.

5. Minimum wage adjustment. All facilities with either an interim rate or a prospective rate in effect on September 1, 1997, shall be granted an increase to their per diem effective September 1, 1997, of one dollar and ninety-eight cents (\$1.98) to allow for the change in minimum wage. Utilizing Fiscal Year 1995 cost report data, the total industry hours reported for each payroll category was multiplied by the forty-cent (40¢) increase, divided by the patient days for the facilities reporting hours for that payroll category and factored up by 8.67% to account for the related increase to payroll taxes. This calculation excludes the director of nursing, the administrator and assistant administrator.

6. FY-98 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1997, shall be granted an increase to their per diem effective October 1, 1997, of 3.4% of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1. and the property insurance and property taxes detailed in paragraph (11)(D)3. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of this regulation.

7. FY-99 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1998, shall be granted an increase to their per diem effective October 1, 1998, of 2.1% of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., the property insurance and property taxes detailed in paragraph (11)(D)3. of this regulation and the minimum wage adjustments detailed in paragraphs (13)(A)4. and (13)(A)5.; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. that is in effect on October 1, 1998, shall have their increase determined by subsection (3)(S) of this regulation.

8. FY-2000 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on July 1, 1999, shall be granted an increase to their per diem effective July 1, 1999, of 1.94% of the cost determined in subsections (11)(A), (11)(B), (11)(C), the property insurance and property taxes detailed in paragraph (11)(D)3. and the minimum wage adjustments detailed in paragraphs (13)(A)4. and (13)(A)5. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. that is in effect on July 1, 1999, shall have their increase determined by subsection (3)(S) of this regulation.

9. FY-2004 nursing facility operations adjustment —

A. Facilities with either an interim rate or prospective rate in effect on July 1, 2003, shall be granted an increase to their per diem effective for dates of service beginning July 1, 2003 through June 30, 2004 of four dollars and thirty-two cents (\$4.32) for the cost of nursing facility operations. Effective for dates of service beginning July 1, 2004, the per diem adjustment shall be reduced to three dollars and seventy-eight cents (\$3.78).

B. The operations adjustment shall be added to the facility's current rate as of June 30, 2003 and is effective for payment dates after August 1, 2003.

(B) Special Per Diem Rate Adjustments. Special per diem rate adjustments may be added to a qualifying facility's rate without regard to the cost component ceiling if specifically provided as described below.

1. Patient care incentive. Each facility with a prospective rate on or after January 1, 1995, shall receive a per diem adjustment equal to ten percent (10%) of the facility's allowable patient care per diem subject to a maximum of one hundred thirty percent (130%) of the patient care median when added to the patient care per diem as determined in subsection (11)(A). This adjustment will not be subject to the cost component ceiling of one hundred twenty percent (120%) for the patient care median.

2. Ancillary incentive. Each facility with a prospective rate on or after January 1, 1995, and which meets one (1) of the following criteria shall receive a per diem adjustment:

A. If the facility's allowable ancillary per diem as determined in subsection (11)(B) is below ninety percent (90%) of the ancillary median, the adjustment is equal to one-half (1/2) of the difference between one hundred twenty percent (120%) and ninety percent (90%) of the ancillary median. The following is an illustration of how the ancillary per diem adjustment is calculated:

120% of median	\$6.62
90% of median	\$4.97
Difference	\$1.65
1/2 the difference	<u>2</u>
Per diem adjustment	\$.83

B. If the facility's allowable ancillary per diem as determined in subsection (11)(B) is between ninety percent (90%) and one hundred twenty percent (120%) of the median, the adjustment is equal to one-half (1/2) of the difference between one hundred twenty percent (120%) of the median and the facility's allowable ancillary per diem. The following is an illustration of how the ancillary per diem adjustment is calculated:

90% of median	\$4.97
120% of median	\$6.62
Ancillary per diem	\$5.21
Difference	\$1.41
1/2 the difference	<u>.71</u>
Per diem adjustment	\$.71

3. Multiple component incentive. Each facility with a prospective rate on or after January 1, 1995, and **which** meets the following criteria shall receive a per diem adjustment:

A. If the sum of the facility's patient care per diem and ancillary per diem, as determined in subsections (11)(A) and (B), is greater than or equal to sixty percent (60%) but less than or equal to eighty percent (80%), rounded to four (4) decimal places (.5985 or .8015 would not receive the adjustment), of the facility's total per diem, the adjustment is as follows:

Percent of Total Per Diem

Rate	Incentive
< 60%	\$0.00
> or = 60% but < 65%	\$1.15
> or = 65% but < 70%	\$1.30
> or = 70% but < 75%	\$1.45
> or = 75% but < or 80% =	\$1.60

B. A facility shall receive an additional incentive if it receives the adjustment in subparagraph (13)(B)3.A. and the following calculation is greater than seventy-five percent (75%), rounded to four (4) decimal places (.7485 would not receive the adjustment): Medicaid days divided by the licensed nursing facility patient days from the facility's desk audited and/or field audited 1992 cost report. The adjustment is as follows:

Calculated Percentage	Incentive
< 75%	\$0.00
> or = 75% but < 80%	\$0.15
> or = 80% but < 85%	\$0.30
> or = 85% but < 90%	\$0.45
> or = 90% but < 95%	\$0.60
> or = 95%	\$0.75

4. 1967 *Life Safety Code* (LSC). Currently certified nursing facilities that must comply with a recent interpretation of paragraph 10-133 of the 1967 LSC which requires corridor walls to extend to the roof deck or achieve equivalency under the Fire Safety Evaluation System (FSES) will be reimbursed the reasonable and necessary cost to meet those standards required for compliance through their reimbursement rate. The reimbursement shall not be effective until the Division of Aging has confirmed that the corrective action to comply with the 1967 LSC or FSES is operational and has reviewed the cost for compliance. Fire sprinkler systems shall be reimbursed over a depreciation life of twenty-five (25) years, and other alternative corrective action will be reimbursed over a depreciable life of fifteen (15) years. The division will use a desk audited and/or field audited cost report with the latest period ending in calendar year 1992 which is on file with the division as of December 31, 1993. This adjustment will be computed based on the documented cost submitted to the division as follows:

A. Depreciation. The cost incurred for the approved corrective action to continue in compliance divided by the depreciable useful life;

B. Interest. The interest cost incurred to finance this project shall be documented by a statement from the lending institution detailing the total interest cost of the loan period. The total interest cost will be divided by the loan period on a straight line basis; and

C. The total of subparagraphs (13)(B)4.A. and B. will be divided by twelve (12) and then multiplied by the number of months covered by the 1992 cost report. This amount will be divided by the greater of actual patient days from the 1992 cost report or eighty-five percent (85%) of the licensed bed days from the 1992 cost report.

5. Any facility that had a 1967 LSC adjustment included in their December 31, 1994 reimbursement rate shall have that adjustment added to their January 1, 1995 reimbursement rate.

6. Replacement beds. A facility with a prospective rate in effect on or after January 1, 1995, may request a rate adjustment for replacement beds that resulted in the same number of beds being delicensed with the Division of Aging or the Department of Health. The facility shall provide documentation from the Division of Aging or the Department of Health that verifies the number of beds used for replacement have been delicensed from that facility. The rate adjustment will be calculated as the difference between the capital component per diem (fair rental value (FRV)) prior to the replacement beds being placed in service and the capital component per diem (FRV) including the replacement beds placed in service as calculated in subsection (11)(D) including the replacement beds placed in service. The capital component is calculated for the replacement beds using the asset value per licensed bed as determined using the R. S. Means Construction Index for nursing facility beds adjusted for the Missouri indexes for the date the replacement beds are placed in service.

7. Additional beds. A facility with a prospective rate in effect on or after January 1, 1995, may request a rate adjustment for additional beds. The facility must obtain an approved certificate of need or applicable waiver for the additional beds. The rate adjustment will be calculated as the difference between the capital component per diem (FRV) prior to the additional beds being placed in service and the capital component per diem (FRV) including the additional beds as calculated in subsection (11)(D) including the additional beds placed in service. The capital component is calculated for the additional beds using the asset value per licensed bed as determined using the R. S. Means Construction Index for nursing facility beds adjusted for the Missouri indexes for the date the additional beds are placed in service.

8. Extraordinary circumstances. A participating facility which has a prospective rate may request an adjustment to its prospective rate due to extraordinary circumstances. This request must be submitted in writing to the division within one (1) year of the occurrence of the extraordinary circumstance. The request must clearly and specifically identify the conditions for which the rate adjustment is sought. The dollar amount of the requested rate adjustment must be supported by complete, accurate and documented records satisfactory to the division. If the division makes a written request for additional information and the facility does not comply within ninety (90) days of the request for additional information, the division shall consider the request withdrawn. Requests for rate adjustments that have been withdrawn by the facility or are considered withdrawn because of failure to supply requested information may be resubmitted once for the requested rate adjustment. In the case of a rate adjustment request that has been withdrawn and then resubmitted, the effective date shall be the first day of the month in which the resubmitted request was made providing that it was made prior to the tenth day of the month. If the resubmitted request is not filed by the tenth of the month, rate adjustments shall be effective the first day of the following month. Conditions for an extraordinary circumstance are as follows:

A. When the provider can show that it incurred higher costs due to circumstances beyond its control, the circumstances were not experienced by the nursing home industry in general and the costs have a substantial cost effect;

B. Extraordinary circumstances include:

(I) Natural disasters such as fire, earthquakes and flood that are not covered by insurance and that occur in a federally declared disaster area; and

(II) Vandalism and/or civil disorder that are not covered by insurance; and

C. The rate increase shall be calculated as follows:

(I) The one (1)-time costs, (costs that will not be incurred in future fiscal years):

(a) To determine what portion of the incurred costs will be paid, the division will use the patient occupancy days from latest available quarterly occupancy survey from the Division of Aging for the time period preceding when the extraordinary circumstances occurred; and

(b) The costs directly associated with the extraordinary circumstances will be multiplied by the above percent. This amount will be divided by the paid days for the month the rate adjustment becomes effective per paragraph (13)(B)8. This calculation will equal the amount to be added to the prospective rate for only one (1) month, which will be the month the rate adjustment becomes effective. For this one (1) month only, the ceiling will be waived.

(II) For ongoing costs (costs that will be incurred in future fiscal years): Ongoing annual costs will be divided by the greater of: annualized (calculated for a twelve (12)-month period) total patient days from the latest cost report on file or eighty-five percent (85%) of annualized total bed days. This calculation will equal the amount to be added to the respective cost center, not to exceed the cost component ceiling. The rate adjustment, subject to ceiling limits will be added to the prospective rate.

(III) For capitalized costs, a capital component per diem (FRV) will be calculated as determined in subsection (11)(D). The rate adjustment will be calculated as the difference between the capital component per diem (FRV) prior to the extraordinary circumstances and the capital component per diem (FRV) including the extraordinary circumstances.

9. Quality Assurance Incentive.

A. Each nursing facility with an interim or prospective rate on or after July 1, 2000, shall receive a per diem adjustment of **three dollars and twenty cents** (\$3.20). The Quality Assurance Incentive adjustment will be added to the facility's current rate.

B. The Quality Assurance Incentive per diem increase shall be used to increase the expenditures to a nursing facility's direct patient care costs. Direct patient care costs include all expenses in the patient care cost component (i.e., lines 46 through 69 of Schedule B in the Title XIX Cost Report). Any increases in wages and benefits already codified in a collective bargaining agreement in effect as of July 1, 2000, will not be counted towards the expenditure requirements of the Quality Assurance Incentive as stated above. Nursing facilities with collective bargaining agreements shall provide such agreements to the division.

10. High volume adjustment. Effective for dates of service July 1, 2000, a high volume adjustment shall be granted to qualifying providers. A provider must qualify each July 1, the beginning of each state fiscal year (SFY), for the high volume adjustment and the adjustment will be effective for services rendered during the SFY, July 1 through June 30. For a provider who has a high volume adjustment on June 30, but does not qualify for the high volume adjustment on July 1 of the subsequent SFY, that provider's prospective rate will be reduced by the amount of the high volume adjustment included in the facility's prospective rate in effect June 30.

A. Each facility with a prospective rate on or after July 1, 2000, and which meets all of the following criteria shall receive a per diem adjustment:

(I) Have on file at the division a full twelve (12)-month cost report ending in the third calendar year prior to the state fiscal year in which the adjustment is being determined (i.e., for SFY 2001, the third prior year would be 1998, for SFY 2002, the third prior year would be 1999, etc.);

(II) The Medicaid patient days as determined from the cost report identified in part (13)(B)10.A.(I) exceeds eighty-five percent (85%) of the total patient days for all nursing facility licensed beds;

(III) The allowable cost per patient day as determined by the division from the applicable cost report for the patient care, ancillary and administration cost components, as set forth in paragraphs (11)(A)1., (11)(B)1. and (11)(C)1., exceeds the per diem ceiling for each cost component in effect at the end of the cost report period; and

(IV) State owned or operated facilities shall not be eligible for this adjustment.

B. The adjustment will be equal to ten percent (10%) of the sum of the per diem ceilings for the patient care, ancillary and administration cost components in effect on July 1 of each year. Effective July 1, 2002, the adjustment shall not accumulate from year to year.

C. The division may reconstruct and redefine the qualifying criteria and payment methodology for the high volume adjustment.

D. Second tier high volume adjustment. Effective for dates of service July 1, 2002, a second tier high volume adjustment shall be granted to qualifying providers.

(I) If a nursing facility qualifies for the first tier high volume adjustment, as set forth above in subparagraph (13)(B)10.A., it may qualify for the second tier adjustment if it meets the following criteria:

(a) The Medicaid patient days as determined from the cost report identified in part (13)(B)10.A.(I) exceeds ninety-three percent (93%) of the total patient days for all nursing facility licensed beds;

(b) The allowable cost per patient day as determined by the division from the applicable cost report for the patient care cost component, as set forth in paragraph (11)(A)1., exceeds one hundred twenty percent (120%) of the per diem ceiling for the patient care cost component in effect at the end of the cost report period; and

(c) The allowable cost per patient day as determined by the division from the applicable cost report for the administration cost component, as set forth in paragraph (11)(C)1., is less than one hundred fifty percent (150%) of the per diem ceiling for the administration cost component in effect at the end of the cost report period.

(II) The second tier high volume adjustment will be calculated as a percentage, to be determined by the Department of Social Services, of the sum of the per diem ceilings for the patient care, ancillary and administration cost components in effect on July 1 of each year. *[The adjustment for state fiscal year 2003 shall be eighteen dollars and fifty-six cents (\$18.56) per Medicaid day.]*

(a) *[The adjustment shall be distributed based on a quarterly amount, in addition to per diem payments, based on Medicaid days determined from the paid day report from Missouri's fiscal agent for pay cycles during the immediately preceding state fiscal year.] The adjustment for State Fiscal Year 2003 shall be eighteen dollars and fifty-six cents (\$18.56) per Medicaid day.*

(b) *[The state share of the second tier high volume adjustment shall come from certified public funds. If the aggregate certified public funds are less than the state match required, the total aggregate second tier high volume adjustment will be adjusted downward accordingly.] The adjustment for SFY 2004 shall be nineteen dollars and seventy-one cents (\$19.71) per Medicaid day.*

(III) The adjustment shall be distributed based on a quarterly amount, in addition to per diem payments, based on

Medicaid days determined from the paid day report from Missouri's fiscal agent for pay cycles during the immediately preceding state fiscal year.

(IV) The state share of the second tier high volume adjustment shall come from certified public funds. If the aggregate certified public funds are less than the state match required, the total aggregate second tier high volume adjustment will be adjusted downward accordingly.

[[/]] (V) A nursing facility must qualify for the adjustment each year to receive the additional quarterly payments.

E. High volume adjustment for nursing facilities without a full twelve (12)-month cost report. Effective for dates of service on or after January 17, 2003, the full twelve (12)-month cost report requirement set forth in (13)(B)10.A.(I) shall include nursing facilities that have on file at the division two (2) partial year cost reports that when combined cover a full twelve (12)-month period.

F. Medicaid hospice days to be included in determination of Medicaid occupancy. Effective for dates of service on or after January 17, 2003, the Medicaid patient days used to determine the Medicaid occupancy requirement set forth in (13)(B)10.A.(II) shall be calculated by adding the days paid for by the Medicaid nursing facility program plus the days paid for by the Medicaid hospice program from the cost report identified in part (13)(B)10.A.(I).

G. State Fiscal Year (SFY) 2004 Ninety Percent (90%) Medicaid High Volume Grant.

(I) Effective for SFY 2004, additional, one (1) time funding shall be provided to nursing facilities that qualify for the first tier high volume adjustment, as set forth above in subparagraph (13)(B)10.A., and whose Medicaid patient days as determined from the cost report identified in part (13)(B)10.A.(I) exceeds ninety percent (90%) of the total patient days for all nursing facility licensed beds.

(II) The SFY 2004 High Volume Grant will be calculated as a per diem adjustment based upon the funding appropriated by the general assembly and the Medicaid days incurred by the qualifying providers during SFY 2003. The adjustment for State Fiscal Year 2004 shall be two dollars and thirty-six cents (\$2.36) per Medicaid day.

(III) The adjustment shall be distributed based on a quarterly amount, in addition to per diem payments, based on Medicaid days determined from the paid days report from Missouri's fiscal agent for pay cycles during State Fiscal Year 2003.

11. Minimum Rate Adjustment. A minimum rate adjustment shall be granted to qualifying providers, as follows:

A. Effective for dates of service beginning July 1, 2001, the minimum Medicaid reimbursement rate for nursing facility services shall be eighty-five dollars (\$85).

AUTHORITY: sections 208.153, 208.159 and 208.201, RSMo 2000. Emergency rule filed Dec. 21, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 21, 1995, effective May 1, 1995, expired Aug. 28, 1995. Original rule filed Dec. 15, 1994, effective July 30, 1995. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 22, 2003, effective Oct. 1, 2003, expires March 28, 2004. Amended: Filed Sept. 22, 2003.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately \$40,742,430 for Fiscal Year 2004 and \$36,029,071 for Fiscal Year 2005.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Division of Medical Services, 615

Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. If to be hand-delivered, comments must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

FISCAL NOTE

PUBLIC COST

I. RULE NUMBER

Rule Number and Name:	13 CSR 70-10.015 Prospective Reimbursement Plan for Nursing Facility Services
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate	
Department of Social Services Medical Services Division	SFY 2004	\$40,742,430
	SFY 2005	\$36,029,071

III. WORKSHEET

Operations Adjustment:	SFY 2004	SFY 2005
Estimated Medicaid Days	9,101,396	9,154,675
x Operations per diem adjustment	x \$4.32	x \$3.78
Estimated Annual Impact	<u>\$39,318,031</u>	<u>\$34,604,672</u>
90% Medicaid High Volume Grant:		
Actual SFY 03 Medicaid Days for Qualifying Facilities	219,306	219,306
x 90% Medicaid High Volume per diem adjustment	x \$2.36	x \$2.36
Estimated Annual Impact	<u>\$517,562</u>	<u>\$517,562</u>
2 nd Tier High Volume Adjustment:		
Actual SFY 03 Medicaid Days for Qualifying Facilities	46,009	46,009
x 2 nd Tier High Volume per diem adjustment	x \$19.71	x \$19.71
Estimated Annual Impact	<u>\$906,837</u>	<u>\$906,837</u>
Total Annual Impact	<u>\$40,742,430</u>	<u>\$36,029,071</u>

IV. ASSUMPTIONS

Operations Adjustment:

The annual impact of the \$4.32 operations adjustment is \$40,742,430 for SFY 04. The estimated annual impact of the operations adjustment for SFY 05 reflects the decrease in the adjustment to \$3.78 and an estimated increase in Medicaid days of approximately 0.5% in SFY 05 over SFY 04.

90% Medicaid High Volume Grant:

Facilities must qualify for the high volume adjustment and be more than 90% Medicaid occupied to qualify for this grant. Based on the 2001 cost reports, five (5) facilities qualify. The SFY 04 high volume grant is calculated as a per diem adjustment based upon the funding appropriated by the general

assembly and the Medicaid days incurred by the qualifying providers during SFY 03. The adjustment for SFY 2004 is two dollars and thirty-six cents (\$2.36) per Medicaid day and is distributed to the qualifying facilities based upon their actual Medicaid days for SFY 03.

2nd Tier High Volume Adjustment:

The annual impact of the \$19.71 2nd tier high volume adjustment is \$906,837 based on SFY 03 Medicaid days of 46,009 for the one (1) qualifying facility.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 10—Nursing Home Program**

PROPOSED AMENDMENT

13 CSR 70-10.080 Prospective Reimbursement Plan for HIV Nursing Facility Services. The division is adding paragraph (13)(A)5.

PURPOSE: This amendment provides for a nursing facility operations adjustment for SFY 2004.

(13) Adjustments to the Reimbursement Rates. Subject to the limitations prescribed elsewhere in this regulation, a facility's reimbursement rate may be adjusted as described in this section.

(A) Global Per Diem Rate Adjustments. A facility with either an interim rate or a prospective rate may qualify for the global per diem rate adjustments. Global per diem rate adjustments shall be added to the specified cost component ceiling.

1. Minimum wage adjustment. All facilities with either an interim rate or a prospective rate in effect on September 1, 1997, shall be granted an increase to their per diem effective September 1, 1997, of one dollar and ninety-eight cents (\$1.98) to allow for the change in minimum wage. Utilizing Fiscal Year 1995 cost report data, the total industry hours reported for each payroll category was multiplied by the forty-cent (40¢) increase, divided by the patient days for the facilities reporting hours for that payroll category and factored up by 8.67% to account for the related increase to payroll taxes. This calculation excludes the director of nursing, the administrator and assistant administrator.

2. FY-98 negotiated trend factor.

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1997, shall be granted an increase to their per diem effective October 1, 1997, of 3.4% of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1. and the property insurance and property taxes detailed in paragraph (11)(D)3. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of this regulation.

3. FY-99 negotiated trend factor.

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1998, shall be granted an increase to their per diem effective October 1, 1998, of 2.1% of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., the property insurance and property taxes detailed in paragraph (11)(D)3. of this regulation and the minimum wage adjustment detailed in paragraph (13)(A)1.; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. that is in effect on October 1, 1998, shall have their increase determined by subsection (3)(S) of this regulation.

4. FY-2000 negotiated trend factor.

A. Facilities with either an interim rate or prospective rate in effect on July 1, 1999, shall be granted an increase to their per diem effective July 1, 1999, of 1.94% of the cost determined in subsections (11)(A), (11)(B), (11)(C), the property insurance and property taxes detailed in paragraph (11)(D)3. and the minimum wage adjustment detailed in paragraph (13)(A)1. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. that is in effect on July 1, 1999, shall have their increase determined by subsection (3)(S) of this regulation.

5. FY-2004 nursing facility operations adjustment.

A. Facilities with either an interim rate or prospective rate in effect on July 1, 2003, shall be granted an increase to their per diem effective for dates of service beginning July 1, 2003 through June 30, 2004 of four dollars and thirty-two cents (\$4.32) for the cost of nursing facility operations. Effective for

dates of service beginning July 1, 2004, the per diem adjustment shall be reduced to three dollars and seventy-eight cents (\$3.78).

B. The operations adjustment shall be added to the facility's current rate as of June 30, 2003 and is effective for payment dates after August 1, 2003.

AUTHORITY: sections 208.153 and 208.201, RSMo [1994] 2000. Original rule filed Aug. 1, 1995, effective March 30, 1996. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Sept. 22, 2003, effective Oct. 1, 2003, expires March 28, 2004. Amended: Filed Sept. 22, 2003.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately twenty-four thousand seven hundred sixty-seven dollars (\$24,767) for State Fiscal Year 2004 and twenty-one thousand six hundred seventy-one dollars (\$21,671) for State Fiscal Year 2005.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Division of Medical Services, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

FISCAL NOTE

PUBLIC COST

I. RULE NUMBER

Rule Number and Name:	13 CSR 70-10.080 Prospective Reimbursement Plan for HIV Nursing Facility Services
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate	
Department of Social Services Medical Services Division	SFY 2004	\$24,767
	SFY 2005	\$21,671

III. WORKSHEET

Operations Adjustment:	<u>SFY 2004</u>	<u>SFY 2005</u>
Estimated Medicaid Days	5,733	5,733
x Operations per diem adjustment	x \$4.32	x \$3.78
Estimated Annual Impact	<u>\$24,767</u>	<u>\$21,671</u>

IV. ASSUMPTIONS

Operations Adjustment:

The estimated annual impact of the operations adjustment for SFY 2004 is \$24,767 based on the per diem adjustment of \$4.32. The estimated annual impact of the operations adjustment for SFY 2005 reflects the decrease in the adjustment to \$3.78.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 10—Nursing Home Program

PROPOSED AMENDMENT

13 CSR 70-10.110 Nursing Facility Reimbursement Allowance.
The division is adding subsection (2)(I).

PURPOSE: This amendment provides for the Nursing Facility Reimbursement Allowance of eight dollars and forty-two cents (\$8.42) per patient occupancy day for nursing facility services, effective July 1, 2003.

(2) NFRA Rates. The NFRA rates determined by the division, as set forth in (1)(B) above, are as follows:

(G) The NFRA will be seven dollars and fifty cents (\$7.50) per patient occupancy day, effective July 1, 2000. The applicable quarterly survey for this period shall be the Division of Aging's December 1999 quarterly survey; *and*

(H) The NFRA will be seven dollars and thirty cents (\$7.30) per patient occupancy day, effective July 1, 2001. The applicable quarterly survey for this period shall be the Division of Aging's December 2000 quarterly survey.; *and*

(I) The NFRA will be eight dollars and forty-two cents (\$8.42) per patient occupancy day, effective July 1, 2003. The applicable quarterly survey for this period shall be the Department of Health and Senior Services' December 2002 quarterly survey.

AUTHORITY: sections 198.401, 198.403, 198.406, 198.409, 198.412, 198.416, 198.418, 198.421, 198.424, 198.427, 198.431, 198.433, 198.436 and 208.201, RSMo 2000, and 198.439, RSMo Supp. 2002. Emergency rule filed Dec. 21, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 21, 1995, effective May 1, 1995, expired Aug. 28, 1995. Original rule filed Dec. 15, 1994, effective July 30, 1995. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 22, 2003, effective Oct. 1, 2003, expires March 28, 2004. Amended: Filed Sept. 22, 2003.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will cost private entities approximately \$129,434,598 annually.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Division of Medical Services, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. If to be hand-delivered, comments must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

FISCAL NOTE

PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	13 CSR 70-10.110 Nursing Facility Reimbursement Allowance
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
549	Long term care facilities	Annual estimated cost: \$129,434,598

III. WORKSHEET

Annual days to be assessed	15,372,280
NFRA	x \$8.42
Annual estimated cost	<u>\$129,434,598</u>

IV. ASSUMPTIONS

The annual impact of \$129,434,598 is based on the SFY 04 assessed amount of \$8.42 per day multiplied by the estimated annualized occupied days of 15,372,280 from the Department of Health and Senior Services' December 2002 quarterly survey.

The annual impact is based on 549 facilities, which includes some costs to small businesses.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 8—Provisional Voting Procedures**

PROPOSED AMENDMENT

15 CSR 30-8.020 Procedures to Determine Eligibility for Provisional Ballots To Be Counted. The secretary of state is adding new sections (6) and (8) and renumbering remaining sections accordingly.

PURPOSE: This amendment requires local election officials to keep a list of provisional ballot identification numbers with corresponding information regarding the rejection or acceptance of each individual provisional ballot. This information is to be used to comply with the Help America Vote Act's requirement of a free access provisional ballot verification system.

(6) The local election authority shall record on a provisional ballot acceptance/rejection list the provisional ballot identification number and a notation marking it as accepted.

[(6)] (7) If the election authority determines that the provisional voter is not registered and/or qualified to vote in the election, the election authority shall provide documentation verifying the voter's ineligibility. This documentation shall be noted on the copy of the provisional ballot envelope and shall contain substantially the following information:

- (A) Name of the provisional voter;
- (B) Name of reviewer;
- (C) Date and time; and
- (D) Description of why voter is ineligible.

(8) The local election authority shall record on a provisional ballot acceptance/rejection list the provisional ballot identification number and a notation marking it as rejected.

[(7)](9) After the election authority completes its review of the provisional voter's eligibility pursuant to subsections (4), (5), and *[(6)] (7)*, of this rule, the election authority shall deliver the provisional ballots, and copies of the provisional ballot envelopes which include the eligibility information, to bi-partisan counting teams, which may be the board of verification, for review and tabulation. The election authority shall maintain a record of the delivery. The record shall include the number of ballots delivered to each team and shall include a signed receipt from two (2) judges, one (1) from each major political party. The election authority shall provide each team with a ballot box, and material necessary for tabulation.

[(8)](10) Challengers and watchers, as provided by sections 115.105 and 115.107, **RSMo** may be present during all times that the bi-partisan counting teams are reviewing and/or counting the provisional ballots, the provisional ballot envelopes, and/or the copies of the provisional ballot envelopes which include the eligibility information provided by the election authority. The election authority shall notify the county chair of each major political party of the time and location when the bi-partisan counting teams will be reviewing and/or counting the provisional ballots, the provisional ballot envelopes, and/or the copies of the provisional ballot envelopes which include the eligibility information provided by the election authority.

[(9)](11) If the person named on the provisional ballot affidavit is found to have been duly qualified and registered to cast a ballot in the election, the envelope shall be opened, and the ballot shall be placed in a ballot box to be counted.

[(10)](12) If the person named on the provisional ballot affidavit is found to have not been duly qualified and registered to cast a ballot in the election, or if the election authority is unable to determine

such person's right to vote, the envelope containing the provisional ballot shall not be opened and the person's vote shall not be counted. The members of the team shall then follow the procedures set out in 15 CSR 30-8.010(5) for rejected provisional ballots.

[(11)](13) The vote shall then be tallied and the returns made as provided in sections 115.447 to 115.525, **RSMo** for paper ballots. After the vote on all ballots assigned to a team have been counted, the ballots, ballot envelopes, and copies of ballot envelopes with the eligibility information provided by the election authority shall be enclosed in sealed containers marked "voted provisional ballots and ballot envelopes from the election held _____, 20__." All rejected provisional ballots, ballot envelopes and copies of ballot envelopes with the eligibility information provided by the election authority shall be enclosed in sealed containers marked "rejected provisional ballots and ballot envelopes from the election held _____, 20__." On the outside of each voted ballot and rejected ballot container, each member of the team shall write their name, and all such containers shall be returned to the election authority. Upon receipt of the returns and ballots, the election authority shall tabulate the provisional vote.

AUTHORITY: section 115.430, **RSMo Supp. [2002] 2003**. Emergency rule filed Oct. 21, 2002, effective Oct. 31, 2002, expired April 28, 2003. Original rule filed Oct. 22, 2002, effective April 30, 2003. Amended: Filed Sept. 19, 2003.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of the Secretary of State, Elections Division, Betsy Byers or Gayla Vandelight, Co-Directors of Elections, PO Box 1767, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 8—Provisional Voting Procedures**

PROPOSED RULE

15 CSR 30-8.030 Provisional Ballot Verification Procedure

PURPOSE: This rule describes Missouri's procedure for provisional voters to discern whether or not their provisional ballot was counted, as mandated by the Help America Vote Act of 2002.

(1) Provisional ballot envelopes, provided by the secretary of state's office, will have a tear away section containing a unique identification number and a toll free phone number.

(2) Individuals who cast provisional ballots may, after the election results have been certified, call the toll free phone number provided to them on the tear away section of their provisional ballot envelope. In compliance with the Help America Vote Act of 2002, this toll free phone number will be maintained and operated by the secretary of state's office. Only individuals who have cast provisional ballots are permitted to use this service to verify the status of their own provisional ballot.

(3) Upon receiving calls from provisional voters on the toll free provisional ballot inquiry line, the secretary of state's office shall transfer the call to the appropriate local election authority.

(4) The local election authority shall, using the provisional voter's unique provisional voting identification number from the tear away section of the provisional ballot envelope, inform the voter of whether or not their provisional ballot was counted or rejected.

(5) If the provisional voter's ballot was rejected the local election authority shall inform the provisional voter that their rejected provisional ballot envelope shall be used to register them to vote.

AUTHORITY: section 115.430, RSMo Supp. 2003. Original rule filed Sept. 19, 2003.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions between two thousand five hundred dollars to twelve thousand five hundred dollars (\$2,500-\$12,500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Office of the Secretary of State, Elections Division, Betsy Byers and Gayla Vandelight, Co-Directors, PO Box 1767, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PUBLIC COST****I. RULE NUMBER**

Rule Number and Name:	15 CSR 30-8.030
Type of Rulemaking:	PROPOSED RULE

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
SECRETARY OF STATE - ELECTIONS	\$100 ONE TIME PHONE LINE INSTALLATION FEE
	\$500 - \$2500 / EACH APPLICABLE ELECTION
	\$2500-\$12,500 OVER THE LIFE OF THE RULE

III. WORKSHEET

\$100 ONE TIME INSTALLATION FEE

7¢ PER MINUTE FOR EACH CALL

3,603 (THE NUMBER OF PROVISIONAL BALLOTS GIVEN OUT IN NOVEMBER 2002 ELECTION)
 x .35 (7¢ A MINUTE x ESTIMATED 5 MINUTES)

= \$1,261

IV. ASSUMPTIONS

There are many variables that factor in to the estimation of this fiscal note. This service will only be available to the public following elections where provisional ballots are used. Provisional voting is only available during elections where federal candidates and statewide candidates or issues are voted. It is certain that there will be two of these elections, the August primary and the November general, during each even numbered year. Additional elections may be held if situations (special elections) warrant.

It is not possible to project with complete accuracy the number of provisional voters who will take advantage of this service. As indicated above, there were 3,603 provisional ballots given out in the November 2002 election. It is reasonable to presume that more ballots will be given out during presidential election years. In addition to not being able to determine the number of provisional ballots given out, there is also no way to accurately predict the number of provisional voters who will actually call to verify their ballots.

The number used in the worksheet above, \$1,261, is based on the assumption that every one of the provisional voters from the November 2002 election call to verify their ballot. The range given in the fiscal note cost estimate, \$500 - \$2,500 per applicable election, therefore gives sufficient room for this figure to either increase or decrease depending on the type of election and the amount of voters using the service.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 12—Grievance Procedures**

PROPOSED RULE

15 CSR 30-12.010 Statewide HAVA Grievance Procedure

PURPOSE: This rule describes the procedure for the filing of an administrative complaint to remedy grievances concerning a violation of Title III of the Help America Vote Act of 2002.

(1) Any person who believes that there is a violation of any provision of Title III of the Help America Vote Act of 2002 (HAVA), 42 U.S.C. 15481 through 15485, (including a violation that has occurred, is occurring, or is about to occur), may file a complaint with the Elections Division of the Office of the Secretary of State.

(2) Any complaint filed under this rule must be written, signed, and sworn to before a notary public commissioned by the state of Missouri.

(3) Any complaint filed under this rule must be filed within thirty (30) days of the certification of the election in which the violation is alleged to have occurred.

(4) The complaint filed under section (1) of this rule shall state the following:

(A) The name and mailing address of the person or persons alleged to have committed the violation of Title III of HAVA described in the complaint;

(B) A description of the act or acts that the person filing the complaint believes is a violation of a provision of Title III of HAVA; and

(C) The nature of the injury suffered (or is about to be suffered) by the person filing the complaint.

(5) The Elections Division shall promptly provide a copy of the complaint by certified mail to:

(A) All persons identified as possible violators of the provisions of Title III of HAVA; and

(B) The election authority in whose jurisdiction the violation is alleged to have occurred.

(6) The Elections Division may consolidate complaints filed under this rule.

(7) Once a complaint has been properly filed under this rule, the secretary of state shall appoint a presiding officer who shall conduct an investigation of the complaint.

(8) At the request of the person filing the complaint, or if the presiding officer believes that the circumstances so dictate, the presiding officer shall conduct a hearing on the complaint and prepare a record on the hearing, such hearing to be conducted within ten (10) days of the request of the person filing the complaint.

(9) The presiding officer, upon completing the investigation, shall submit the results to the Elections Division, which shall then issue a written report. The Elections Division shall provide a copy of the report by certified mail to:

(A) The person who filed the complaint;

(B) The person or persons alleged to have committed the violation; and

(C) The election authority in whose jurisdiction the violation was alleged to have occurred.

(10) The report described in section (8) of this rule shall:

(A) Indicate the date when the complaint was received by the Elections Division;

(B) Contain findings of fact regarding the alleged violation and state whether a violation of Title III of HAVA has occurred;

(C) State what steps, if any, the person or persons alleged to have committed the violation has taken to correct the violation and/or to prevent any reoccurrence;

(D) Suggest any additional measures that could be taken to correct the violation;

(E) Indicate the date a violation was corrected or is expected to be corrected; and

(F) Provide any additional information or recommendations useful in resolving the complaint.

(11) If the Elections Division determines that there is a violation of any provision of Title III of HAVA, the Elections Division shall determine and provide the appropriate remedy, if authorized to do so. If the Elections Division determines that it is not authorized by law to provide the appropriate remedy, the Elections Division shall, if possible, refer the matter to the appropriate agency or office that has jurisdiction.

AUTHORITY: section 28.035, RSMo Supp. 2003. Original rule filed Sept. 19, 2003.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions between five thousand dollars and forty-two thousand five hundred dollars (\$5,000–\$42,500).

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Office of the Secretary of State, Elections Division, Betsy Byers and Gayla Vandelicht, Co-Directors, PO Box 1767, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC COST****I. RULE NUMBER**

Rule Number and Name:	15 CSR 30-12.010
Type of Rulemaking:	PROPOSED RULE

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
SECRETARY OF STATE - ELECTIONS	UP TO AN ESTIMATED \$8500 A YEAR
	BETWEEN \$5000-\$42,500 FOR THE LIFE OF THE RULE

III. WORKSHEET

25 (ESTIMATED MAXIMUM NUMBER OF GRIEVANCES PER YEAR)
x 20 (ESTIMATED MAXIMUM NUMBER OF HOURS SPENT ON EACH GRIEVANCE)

500 x \$17 (HOURLY RATE OF EMPLOYEE HANDLING GRIEVANCES = \$8500

IV. ASSUMPTIONS

This estimated fiscal note is based on a formula that assumes a maximum number of grievances filed. The actual costs incurred can be expected to fluctuate above and below the estimated cost depending on the number of grievances filed. It is reasonable to assume, however, \$8500 is a close estimate of a maximum cost based on the information available at this time.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

**Division 20—Division of Environmental Health and Communicable Disease Prevention
Chapter 28—Immunization**

PROPOSED AMENDMENT

19 CSR 20-28.010 Immunization Requirements for School Children. The department is amending section (1), (2), (3), and subsection (3)(A) and adding a new subsection (2)(C).

PURPOSE: This proposed amendment adds varicella vaccine to the list of required vaccines for school attendance.

(1) As mandated by section 167.181, RSMo, each superintendent of a public, private, parochial or parish school shall have a record prepared showing the immunization status of every child enrolled in or attending a school under the superintendent's jurisdiction. The school superintendent shall make a summary report to the Department of Health and Senior Services no later than October 15 of each school year. This date is necessitated by the law which prohibits the enrollment and attendance of children who are in noncompliance. This report shall include immunization information by grade or age by vaccine antigen (diphtheria, tetanus, pertussis, polio, measles, rubella, mumps, *[and]* hepatitis B, **and varicella**), number of children enrolled, number of children adequately immunized, number of children in progress, and number of children exempt. Each school superintendent or chief administrator shall submit a summary report for all schools under the administrator's jurisdiction. Separate reports for each school should not be submitted, although separate lists shall be maintained in each school for auditing purposes.

(2) For school attendance, children shall be immunized against diphtheria, tetanus, pertussis, polio, measles, rubella, mumps, *[and]* hepatitis B, **and varicella**, according to the latest Advisory Committee on Immunization Practices (ACIP) Recommended Childhood Immunization Schedule—United States and the latest ACIP General Recommendations on Immunization. As the immunization schedule and recommendations are updated, they will be available from and distributed by the Department of Health and Senior Services.

(C) Varicella vaccine shall be required for all children starting kindergarten or who were five (5) or six (6) years of age as of and after the beginning of the 2005–06 school year.

(3) The parent or guardian shall furnish the superintendent or school administrator satisfactory evidence of immunization or exemption from immunization against diphtheria, tetanus, pertussis, polio, measles, mumps, rubella, *[and]* hepatitis B, **and varicella**.

(A) Satisfactory evidence of immunization means a statement, certificate or record from a physician or other recognized health facility or personnel stating that the required immunizations have been given to the person and verifying the type of vaccine. All children shall be required to provide documentation of the month, day and year of vaccine administration. **However, if a child has had varicella (chickenpox) disease, the parent, the guardian, a licensed doctor of medicine or doctor of osteopathy may sign and place on file with the superintendent or school administrator a written statement documenting previous varicella (chickenpox) disease. The statement may contain wording such as: "This is to verify that (name of child) had varicella (chickenpox) disease on or about (date) and does not need varicella vaccine."**

AUTHORITY: sections 167.181, RSMo [Supp. 2001,] Supp. 2003 and 192.006 and 192.020, RSMo 2000. This rule was previously filed as 13 CSR 50-110.010. Original rule filed April 24, 1974, effective May 4, 1974. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 23, 2003.

tive May 4, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 23, 2003.

PUBLIC COST: This proposed amendment is estimated to cost the Department of Health and Senior Services and political subdivisions fifty-nine thousand and two hundred sixty dollars (\$59,260) annually in the aggregate. A fiscal note containing a detailed estimated cost of compliance has been filed with the secretary of state.

PRIVATE COST: This proposed amendment is estimated to cost private entities three hundred fifty-five thousand and one hundred twenty-nine dollars (\$355,129) annually in the aggregate. A fiscal note containing a detailed estimated cost of compliance has been filed with the secretary of state.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Bryant McNally, JD, MPH, Director, Division of Environmental Health and Communicable Disease Prevention, PO Box 570, Jefferson City, MO 65102, phone (573) 751-6080. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC ENTITY COST****I. RULE NUMBER**

Title: 19 – Department of Health and Senior Services

Division: 20 – Division of Environmental Health and Communicable Disease Prevention

Chapter: 28 - Immunization

Type of Rule Making: Proposed Amendment

Rule Number and Name: 19 CSR 20-28.010 Immunization Requirements for School Children

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Local public health agencies	\$21,365 annually
Medicaid	\$37,895 annually

III. WORKSHEET

The estimates in the aggregate were calculated as follows:

LOCAL PUBLIC HEALTH AGENCIES

Administration of 4,273 doses of vaccines @ \$5.00 \$21,365

MEDICAID

Administration of 7,579 doses of vaccines @ \$5.00 \$37,895

Total Annual Public Entity Cost \$59,260

IV. ASSUMPTIONS

1. Approximately 75,000 children will enter kindergarten for the 2005-2006 school year and each year thereafter.
2. Out of the 75,000 entering kindergarten, 77 percent (57,750) will have already received the varicella immunization leaving 17,250 unvaccinated.*
3. Of the 17,250 unvaccinated children, DHSS estimates that 6.5 percent (1,125) of the children entering kindergarten will have natural immunity from having had the disease.
4. Of the remaining 16,125 children, 47 percent (7,579) will be immunized through the federal Vaccines for Children (VFC) program.
5. Vaccine will be available free through the VFC program; Division of Medical Services reports that the cost to administer will be \$5 per immunization:

$$7,579 \times \$5 = \$37,895 \text{ (VFC Medicaid cost).}$$

6. 8,546 children will remain to be vaccinated.
7. Private insurance will pay for vaccinating 50 percent of the 8,546 children. The remaining 4,273 unvaccinated children will receive their vaccines from local public health agencies. Vaccines will be federally funded. Administration by local public health agencies will be approximately \$5.00 per dose.
 - $4,273 \times \$5 = \$21,365$ (local public health agency)

*National Immunization Survey, 2002.

**FISCAL NOTE
PRIVATE ENTITY COST****I. RULE NUMBER**

Title: 19 – Department of Health and Senior Services

Division: 20 – Division of Environmental Health and Communicable Disease Prevention

Chapter: 28 – Immunization

Type of Rule Making: Proposed Amendment

Rule Number and Name: 19 CSR 20-28.010 Immunization Requirements for School Children

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate n the aggregate as to the cost of compliance with the rule by the affected entities.
4,273 privately insured kindergartners	private health insurance companies	\$355,129 annually

III. WORKSHEET

4,273 privately insured kindergartners will need the vaccine at \$58.11 per dose for vaccine, \$10 per dose for vaccine administration, \$15 co-pay for family = \$355,129 annually

IV. ASSUMPTIONS

1. Approximately 75,000 children will enter kindergarten for the 2005-2006 school year and each year thereafter.
2. Out of the 75,000 entering kindergarten, 77 percent (57,750) will have already received the varicella immunization leaving 17,250 unvaccinated.*
3. Of the 17,250 unvaccinated children, DHSS estimates that 6.5 percent (1,125) of the children entering kindergarten will have natural immunity from having had the disease.
4. Of the remaining 16,125 children, 47 percent (7,579) will be immunized through the federal Vaccines for Children (VFC) program.
5. 8,546 children entering kindergarten who are not eligible for VFC program (children with health insurance that includes childhood immunizations would not be eligible for VFC) remain to be vaccinated.
6. Local public health agencies will immunize approximately half of these children, or 4,273 children.
7. Private insurance will pay for vaccinating the remaining 4,273. Private sector cost of varicella vaccine is \$58.11 per dose, \$10 administration cost per dose, with estimated \$15 co-pay for families.

- $4,273 \times \$83.11 = \$355,129$

*National Immunization Survey, 2002.

**Title 20—DEPARTMENT OF INSURANCE
Division 10—General Administration
Chapter 1—Organization**

PROPOSED AMENDMENT

20 CSR 10-1.020 Interpretation of Referenced or Adopted Material. The department is amending section (1) of this rule.

PURPOSE: This amendment incorporates by reference more recent editions of certain publications.

(1) The versions of the following materials published on or before June 30, [2001] **2003**, are incorporated by reference in the rules of the Department of Insurance under this title:

(B) National Association of Insurance Commissioners (NAIC) publications, as follows:

1. *Accounting Practices and Procedures Manual*;
2. Annual Statement Instructions;
3. Valuation of Securities;
4. Examiner's Handbook;
5. NAIC Proceedings 1984, Volume I; *[and]*
6. NAIC uniform biographical data forms; **and**
7. **NAIC Uniform Application for Individual Insurance Producer License.**

AUTHORITY: section 374.045, RSMo 2000. Original rule filed Nov. 24, 1992, effective Aug. 9, 1993. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 24, 2003.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10 a.m. on December 9, 2003. The public hearing will be held at the Harry S Truman State Office Building, 301 West High Street, Room 530, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment, until 5:00 p.m. on December 9, 2003. Written statements shall be sent to Stephen R. Gleason, Department of Insurance, PO Box 690, Jefferson City, MO 65102.

SPECIAL NEEDS: If you have any special needs addressed by the Americans With Disabilities Act, please notify us at (573) 751-6798 or (573) 751-2619 at least five (5) working days prior to the hearing.

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order or rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

Title 2—DEPARTMENT OF AGRICULTURE Division 30—Animal Health Chapter 9—Animal Care Facilities

ORDER OF RULEMAKING

By the authority vested in the director of agriculture under section 273.444 and 273.346, RSMo 2000, the director amends a rule as follows:

2 CSR 30-9.020 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 16, 2003, (28 MoReg 1085-1086). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Two (2) comments were received on the proposed changes. With both comments having similar opposition to the proposed changes, one (1) response follows this group of two (2) comments.

COMMENT: The proposed changes in (1)(T) regarding consent agreements and (14)(G) covering foster homes exceed the director's rulemaking authority. In (11)(B)1.I. requiring every broker or operator of an auction to maintain records on the name, mailing address, any USDA/ACFA license numbers of all people registering at the auction to buy animals, is an invasion of privacy without sufficient justification or authority under the ACFA statute.

COMMENT: The second commenter felt that the addition of section (T) should be placed in the Animal Care Facilities Act, RSMo

273.325 to 273.357 instead of this section. Also, there is not a clear definition of rescue group or foster home in the current regulations. In addition, this comment addressed concern that the removal of (13)(B)2. and (15)(C)3. is unenforceable as it stands.

RESPONSE AND EXPLANATION OF CHANGE: Settlement agreements expedite enforcement by seeking immediate action instead of a long legal process. A settlement agreement prior to the administrative process allows both parties to achieve resolution. Settlements are open record and available to the public for inspection. Due process is preserved since both parties have legal recourse to an administrative hearing.

In section 273.325, RSMo five (5) rescue groups are included in the definition of animal shelters. However, because of time and budgetary restraints the proposed change to subsection (14)(G) will be withdrawn and reviewed further at the Animal Care Facility Act Advisory committee meeting.

Auctions are defined in the law and are subject to regulations. Records of auctions are used to search unlicensed covered activity. Investigation and licensing covered activity is not an invasion of privacy nor does it exceed the authority of the ACFA statute. Therefore, we believe the director can make these changes to the regulations.

The removal of (13)(B)2. Holding Period and the removal of (15)(C)3. Procurement of Dogs and Cats By Licensees allows a shorter second holding period by licensees and allows animals to be moved between shelters and rescues more expeditiously.

2 CSR 30-9.020 Animal Care Facility Rules Governing Licensing, Fees, Reports, Record Keeping, Veterinary Care, Identification and Holding Period

(14) Miscellaneous.

(F) Handling of Animals.

1. Handling of all animals shall be done as expeditiously and carefully as possible in a manner that does not cause trauma, overheating, excessive cooling, behavioral stress, physical harm or unnecessary discomfort.

2. Physical abuse shall not be used to train, work or otherwise handle animals.

3. Deprivation of food or water shall not be used to train, work or otherwise handle animals; provided however, that the short-term withholding of food or water from animals by exhibitors is allowed by this rule as long as each of the animals affected receives its full dietary and nutrition requirements each day.

4. During public exhibition, any animal must be handled so there is minimal risk of harm to the animal and to the public, with sufficient distance or barriers, or both, between the animal and the general viewing public so as to assure the safety of animals and the public.

A. Performing animals shall be allowed a rest period between performances at least equal to the time for one (1) performance.

B. Young or immature animals shall not be exposed to rough or excessive public handling or exhibited for periods of time which would be detrimental to their health or well-being.

C. Drugs, such as tranquilizers, shall not be used to facilitate, allow or provide for public handling of the animals.

D. Animals shall be exhibited only for periods of time and under conditions consistent with their good health and well-being.

E. A responsible, knowledgeable and readily identifiable employee or attendant must be present at all times during periods of public contact.

F. During public exhibitions, dangerous animals such as lions, tigers or wolves must be under the direct control and supervision of a knowledgeable and experienced animal handler.

G. If public feeding of animals is allowed, the food must be provided by the animal facility and shall be appropriate to the type of animal and its nutritional needs and diet.

5. All euthanasia of animals shall be accomplished by a method approved by the 2000 edition, or later revisions, of the *American Veterinary Medical Association's Panel on Euthanasia*, as incorporated by reference in this rule.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 100—Division of Credit Unions
Chapter 2—State-Chartered Credit Unions**

ORDER OF RULEMAKING

By the authority vested in the director of the Division of Credit Unions under section 370.100, RSMo 2000, the director amends a rule as follows:

4 CSR 100-2.080 Fiscal and Financial Services is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 15, 2003 (28 MoReg 1279–1280). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Division of Credit Unions received two (2) comments on the proposed amendment.

COMMENT: The Missouri Credit Union Association whose membership is Missouri credit unions and one (1) credit union submitted comments in support of the proposed amendment.

RESPONSE: The Division of Credit Unions appreciates receiving the support of the Missouri credit unions in this effort.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.250 and 393.140, RSMo 2000, the Public Service Commission amends a rule as follows:

4 CSR 240-3.180 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 2, 2003 (28 MoReg 1024–1027). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

The first reports using the amended filing requirements will be due April 30, 2004, for the month ending March 31, 2004.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held July 9, 2003, and the written public comment period ended July 3, 2003. At the public hearing, the staff of the Public Service Commission of Missouri, testified in favor of the proposed amendment through Gay Fred, Tom Imhoff, Bob Berlin, and Tim Schwarz. John Coffman, the Public Counsel, provided written and oral comments; Mid-Missouri Counties Human Development Corporation appeared through Ivan Eames; and Kansas City Power & Light Company (KCPL) submitted written comments and appeared through Jim Fischer. The Commission staff, Public

Counsel, Mid-Missouri Human Development Corporation, and AmerenUE generally supported the proposed amendment.

COMMENT: KCPL comments in several places that it will incur costs to implement the amended rule, totaling twenty-four thousand dollars (\$24,000).

RESPONSE: The Commission notes that KCPL's projected costs are small, relative to its revenues; that utilities make frequent changes to information systems, the costs of which are included in rate cases; and that the information sought by the amended rule should be useful to all stakeholders in addressing the problems of low income customers.

COMMENT: All parties commented that "and known not to be receiving energy assistance" in section (1) was unclear.

RESPONSE AND EXPLANATION OF CHANGE: The Commission will reword the phrase to read "and not known to be receiving energy assistance." The Commission further notes that "disconnected" means a customer who is not currently receiving service, while "discontinued" means a customer whose service was disconnected for nonpayment of a bill. The Commission will further clarify subsection (1)(A) by rewriting it where paragraph (1)(A)1. asks for the total number of customers without service.

COMMENT: KCPL noted that the statistics reported under the rule might be misinterpreted.

RESPONSE: The Commission will note the limitations of the data, and differences between utilities, when releasing the reported information.

COMMENT: With respect to paragraphs (1)(C)1. and 2., KCPL noted that it might not know all of the sources of funds available to customers; and that use of the terms "pledged or paid" might lead to double counting of assistance.

RESPONSE AND EXPLANATION OF CHANGE: The Commission asks only for reporting of assistance known to the utility. Other sources would include the Salvation Army, civic organizations, and the like. The Commission indicates that it does not seek or want double counting of assistance by use of the word "or" between "pledged" and "paid."

To further clarify paragraph (1)(C)2., the Commission will reorder the list.

COMMENT: KCPL notes that subsection (1)(E) seeks different information than the current rule.

RESPONSE: KCPL is correct. The Commission believes that knowing the amount owed by payment troubled customers may help stakeholders in the formulation of policy to address the needs of low income customers.

COMMENT: KCPL questioned the meaning of "Other assistance" in paragraphs (1)(G)3. and (1)(H)3.

RESPONSE AND EXPLANATION OF CHANGE: The term "other assistance" means assistance customers received that is known to the utility. To further clarify, the Commission will add the phrase "known to the utility" to the phrases.

COMMENT: KCPL notes that it may not have the exact information sought by subsection (1)(J).

RESPONSE: The Commission is asking for the number of customers who apply for service or restoration of service, where the amount offered by the customer, including assistance, is insufficient to obtain service. The Commission does not ask for information that the utility does not have.

4 CSR 240-3.180 Submission of Electric Utility Residential Heat-Related Service Cold Weather Report

(1) Each utility providing heat-related utility service shall submit a report to the consumer services department of the commission for each calendar month no later than the twentieth day of the following month. The utility shall provide a copy of each report to the Office of the Public Counsel. The utility shall report for each operational district into which the utility has divided its Missouri service territory the number of days it was permitted to discontinue service under 4 CSR 240-13.055, and the utility shall separately report on the information listed below for customers receiving energy assistance and customers who are affected by 4 CSR 240-13.055 and not known to be receiving energy assistance. All information submitted shall be considered public information; however, no customer-specific information shall be reported or made public. Utilities providing both electric and gas service shall report the information separately for their gas-only territory:

(A) How many customers were:

1. Disconnected at the end of the period;
2. Of those disconnected, how many customers had service discontinued for non-payment during the period;
3. Of those discontinued during the period, how many customers were restored to service during the period.

(C) Of those customers reconnected during the period:

1. How many customers received energy assistance (pledged or paid) from:

A. Low Income Home Energy Assistance Program (LIHEAP);

B. Energy Crisis Intervention Program (ECIP);

C. Other sources known to the utility.

2. How much energy assistance was provided by:

A. LIHEAP;

B. ECIP;

C. Other sources known to the utility;

D. Customer.

(G) For how many customers during the period did the utility receive:

1. LIHEAP;

2. ECIP;

3. Other assistance known to the utility.

(H) How much cash did the utility receive on behalf of customers during the period from:

1. LIHEAP;

2. ECIP;

3. Others known to the utility.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240—Public Service Commission

Chapter 3—Filing and Reporting Requirements

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.250 and 393.140, RSMo 2000, the Public Service Commission amends a rule as follows:

4 CSR 240-3.250 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 2, 2003 (28 MoReg 1028-1031). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

The first reports using the amended filing requirements will be due April 30, 2004, for the month ending March 31, 2004.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held July 9, 2003, and the written public comment period ended July 3, 2003. At the public hearing, the staff of the Public Service Commission of Missouri, testified in favor of the proposed amendment through Gay Fred, Tom Imhoff, Bob Berlin, and Tim Schwarz. John Coffman, the Public Counsel, provided written and oral comments; AmerenUE appeared through Jim Fischer and Laurie Karman; Missouri Gas Energy (MGE) entered written comments; Laclede Gas Company (Laclede) filed written comments and appeared through Rick Zucker; and Mid-Missouri Counties Human Development Corporation appeared through Ivan Eames. The Commission staff, Public Counsel, Mid-Missouri Human Development Corporation, and AmerenUE generally supported the proposed amendment.

COMMENT: All parties commented that “and known not to be receiving energy assistance” in section (1) was unclear.

RESPONSE AND EXPLANATION OF CHANGE: The Commission will reword the phrase to read “and not known to be receiving energy assistance.”

COMMENT: Laclede and MGE commented that subsection (1)(A) was unclear in the use of “disconnected” and “discontinued.”

RESPONSE AND EXPLANATION OF CHANGE: The Commission notes that “disconnected” means a customer who is not currently receiving service, while “discontinued” means a customer whose service was disconnected for nonpayment of a bill. The Commission will further clarify subsection (1)(A) by rewriting it where paragraph (1)(A)1. asks for the total number of customers without service.

COMMENT: With respect to paragraphs (1)(B)2. and (1)(D)2., MGE inquired what a non-cold weather rule pay agreement is.

RESPONSE: A non-cold weather rule pay agreement is an agreement between a gas utility and a customer for payment of a bill or part of a bill in more than one (1) current installment, other than as prescribed by 4 CSR 240-13.055.

COMMENT: With respect to paragraphs (1)(C)1. and 2., MGE asked the difference between “received” in paragraph (1)(C)2. and “provided by” in paragraph (1)(C)1.

RESPONSE: Paragraph (1)(C)1. asks for the number of customers who benefited from (received) assistance; while paragraph (1)(C)2. asks how much money each source group paid or pledged (provided).

COMMENT: With respect to paragraphs (1)(C)1. and 2., Laclede asked what “other” means.

RESPONSE AND EXPLANATION OF CHANGE: “Other” means a source of funds, known to the utility, for customers other than the government “LIHEAP” or “ECIP” programs. To further clarify paragraph (1)(C)2., the Commission will reorder the list.

COMMENT: Laclede questioned the meaning of “other assistance” in paragraph (1)(G)3. and (1)(H)3.

RESPONSE AND EXPLANATION OF CHANGE: The term “other assistance” means assistance customers received, that is known to the utility. To further clarify, the Commission will add the phrase “known to the utility” to the phrases.

4 CSR 240-3.250 Submission of Gas Utility Residential Heat-Related Service Cold Weather Report

(1) Each utility providing heat-related utility service shall submit a report to the consumer services department of the commission for each calendar month no later than the twentieth day of the following month. The utility shall provide a copy of each report to the Office of the Public Counsel. The utility shall report for each operational district into which the utility has divided its Missouri service territory the number of days it was permitted to discontinue service under

4 CSR 240-13.055, and the utility shall separately report on the information listed below for customers receiving energy assistance and customers who are affected by 4 CSR 240-13.055 and not known to be receiving energy assistance. All information submitted shall be considered public information; however, no customer-specific information shall be reported or made public. Utilities providing both electric and gas service shall report the information separately for their gas-only territory:

(A) How many customers were:

1. Disconnected at the end of the period;
2. Of those disconnected, how many customers had service discontinued for non-payment during the period;
3. Of those discontinued during the period, how many customers were restored to service during the period.

(C) Of those customers reconnected during the period:

1. How many customers received energy assistance (pledged or paid) from:

A. Low Income Home Energy Assistance Program (LIHEAP);

B. Energy Crisis Intervention Program (ECIP);

C. Other sources known to the utility.

2. How much energy assistance was provided by:

A. LIHEAP;

B. ECIP;

C. Other sources known to the utility;

D. Customer.

(G) For how many customers during the period did the utility receive:

1. LIHEAP;

2. ECIP;

3. Other assistance known to the utility.

(H) How much cash did the utility receive on behalf of customers during the period from:

1. LIHEAP;

2. ECIP;

3. Others known to the utility.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 40—Gas Utilities and Gas Safety Standards**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.250 and 393.140, RSMo 2000, the Public Service Commission adopts a rule as follows:

4 CSR 240-40.018 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on June 2, 2003 (28 MoReg 1032). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rule was held July 10, 2003, and the public comment period ended July 3, 2003. At the public hearing, Warren Wood, Manager of the Energy Department of the Public Service Commission of Missouri, explained the development of the proposed rule and presented the Staff's responses to all written comments that had been provided to the Commission regarding the proposed rule through an exhibit that was marked Exhibit No. 1 and entered into the record. Jim Busch—an economist with the Office of the Public Counsel; Scott Glaeser—manager of natural gas supply and transportation for Ameren Energy Fuels and Services Company; Sean Gillespie—director of gas supply

planning and operations for the southern region of Aquila; Rob Hack—attorney for Missouri Gas Energy; Mike Pendergast—attorney for Laclede Gas Company; and Anita Randolph—director of the Department of Natural Resources' Energy Center all presented oral comments regarding the proposed rule at the public hearing.

COMMENT: Douglas E. Micheel, Esq., Senior Public Counsel, Office of the Public Counsel, on behalf of the Office of the Public Counsel, endorsed the proposed rule.

RESPONSE: No changes have been made to the proposed rule as a result of this comment.

COMMENT: Jim Busch, Economist for the Office of the Public Counsel, on behalf of the Office of the Public Counsel, endorsed the proposed rule. Mr. Busch also responded to some recommended changes that other parties would like to see made to the proposed rule. Mr. Busch expressed opposition to changing or removing the word "upward" regarding upward price volatility, the recommendation of adding index pricing to the proposed rule and that of adding NYMEX to section (2)(F) of the proposed rule where it lists futures contracts. Mr. Busch also expressed concern over adding energy efficiency to the rule since this rule is really structured as a supply side rule, and energy efficiency is a demand side concern. Also, in response to questions from the administrative law judge, Mr. Busch noted that "usage" as listed in the rule associated with usage volatility should remain in the proposed rule.

RESPONSE: No changes have been made to the proposed rule as a result of these comments.

COMMENT: Dean L. Cooper, Attorney, as attorney for Aquila, Inc. d/b/a Aquila Networks—MPS and Aquila Networks—L&P, endorsed the proposed rule. Aquila did note agreement with "technical drafting issues raised by other Missouri gas utilities," but did not recommend any specific changes to the rule.

RESPONSE: No changes have been made to the proposed rule as a result of this comment.

COMMENT: Sean Gillespie, director of gas supply planning and operations for the southern region of Aquila, on behalf of Aquila, endorsed the proposed rule and the comments that were provided by the other utilities, especially those of Ameren. Mr. Gillespie specifically endorsed the addition of NYMEX and OTC clarifications to the proposed rule, since there are a lot of tools available. Mr. Gillespie also noted that Aquila believes that adding energy efficiency to the rule is not appropriate since this rule deals with the supply side and not the demand side, but did note that they would be in support of a separate rulemaking. Mr. Gillespie also noted that weather hedges should be added to the rule, to remove any ambiguity.

RESPONSE: No changes have been made to the proposed rule as a result of these comments. The comments of AmerenUE, and the Commission's responses to those comments, are addressed below. The Commission has considered the addition of weather hedges to the proposed rule and believes that this tool is covered under the last provision of section (2) of the rule.

COMMENT: Brenda Wilbers, Program Director, Department of Natural Resources—Policy and Planning, on behalf of the Department recommended that section (2) of the rule be expanded to include energy efficiency programs and that a separate workgroup and rule be established to address energy efficiency programs.

RESPONSE: The Commission has considered these comments and notes that the second comment does not relate to a recommended change to this rule and will therefore not be addressed in this response. The first comment relates to broadening the language in section (2) of the proposed rule to include energy efficiency programs. The stated purpose of this rule is to provide "a statement of Commission policy that natural gas local distribution companies should undertake diversified natural gas purchasing activities as part

of a prudent effort to mitigate upward natural gas price volatility and secure adequate natural gas supplies for their customers.” While the Commission is generally supportive of the issues noted by the Department in its comments, this rule is structured to address supply side planning whereas energy efficiency is a demand side consideration. No changes to the proposed rule have been made as a result of these comments.

COMMENT: Anita Randolph, director of the Department of Natural Resources’ Energy Center, on behalf of the Department, stated that the proposed rule would benefit from the inclusion of the energy efficiency.

RESPONSE: No changes to the proposed rule have been made as a result of this comment. The issue addressed by Mrs. Randolph mirrors that of Mrs. Wilbers of the Department of Natural Resources and the Commission’s response to this issue is provided in the response to Mrs. Wilbers’ comments.

COMMENT: Warren Wood, Manager, Energy Department of the Public Service Commission, stated that the Staff has been very supportive of weatherization programs, energy conservation programs and low-income assistance programs that were structured appropriately. Further, Staff is supportive of initiatives for addressing energy efficiency programs. Staff cannot, however, recommend that the rule be expanded to include “Energy Efficiency Programs” as an option that natural gas utilities should pursue in their efforts “to minimize the impacts of market price spikes and provide a level of stability of delivered natural gas prices.” Staff does not believe that adding energy efficiency to section (2) of the rule is appropriate since this rule is directed at supply side planning issues and not demand side remedies.

RESPONSE: No changes to the proposed rule have been made as a result of these comments.

COMMENT: James M. Fischer, Attorney, as attorney for Union Electric Company d/b/a AmerenUE, endorsed the proposed rule, thanked the Commission for the opportunity to participate in the development of the proposed rule and suggested several changes. AmerenUE suggested that the following changes to the proposed rule would be appropriate:

1. That the rule specify that cash gains or losses associated with instruments used to mitigate price volatility be flowed through the PGA mechanism;
2. That “NYMEX” be inserted in front of “Futures Contracts” in section (2) of the proposed rule;
3. That section (2) of the proposed rule be expanded to include “Financial Swaps and Options from OTC Markets”;
4. That the pricing structures listed in section (2) of the proposed rule be expanded to include indexed contracts; and
5. That wherever “upward” appears in subsection (1)(C) of the proposed rule it should be replaced with the word “price.”

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered the comments made by AmerenUE and agrees that some changes to the proposed rule are appropriate.

AmerenUE’s first comment relates to specifically permitting a pass through of cost associated with natural gas price mitigation efforts in the PGA. The Commission agrees that this clarification is an appropriate addition to the rule and will add a sentence to the end of section (1)(B).

AmerenUE’s second comment relates to placing NYMEX in front of “Futures Contracts” in subsection (2)(F). The Commission cannot support this change to the rule as it could act to exclude other futures contracts that may currently be available or will develop in the market.

AmerenUE’s third recommended change was to add “Financial Swaps and Options from OTC Markets” to the options listed in section (2) of the rule. The Commission agrees that this is an appro-

priate addition to the rule and will change the list of options in section (2) of the proposed rule.

AmerenUE’s fourth recommended change is that the list of pricing structures, mechanisms and instruments in section (2) of the proposed rule should be expanded to include indexed contracts. The Commission has considered this recommendation and cannot support this change to the rule since section (2) of the rule is intended to provide a list of pricing structures, mechanisms and instruments that natural gas utilities should consider in developing purchasing plans that consider natural gas price volatility mitigation. The Commission’s exclusion of indexed contracts from the list in the rule under section (2) does not imply that index contracts are imprudent and/or inappropriate in a well-structured purchasing portfolio, just that the Commission does not consider them a purchasing mechanism for attempting to address upward price volatility.

AmerenUE’s fifth comment was that “upward” should be replaced with “price” where upward volatility is noted in subsection (1)(C). The Commission has considered this recommendation and cannot support this change to the rule since its purpose is to provide a clear “statement of Commission policy that natural gas local distribution companies should undertake diversified natural gas purchasing activities as part of a prudent effort to mitigate *upward* natural gas price volatility and secure adequate natural gas supplies for their customers” (*emphasis added*). Changing “upward” to “price” as recommended by AmerenUE is not consistent with the purpose of this rule. The Commission clarifies language in subsection (1)(C) by adding “price.”

COMMENT: Scott Glaeser, manager of natural gas supply and transportation for Ameren Energy Fuels and Services Company, on behalf of AmerenUE, noted that the rule should address the rate recovery of financial instrument in the PGA. Mr. Glaeser also noted that NYMEX should be added to the rule associated with futures contracts since this is the primary futures market for natural gas trading in the United States and Canada. Mr. Glaeser further recommended that over-the-counter markets (OTC) should be referenced in the proposed rule. Mr. Glaeser’s last comment was that energy efficiency is a demand side component and that this rulemaking is based on supply side price mitigation.

RESPONSE: No changes to the proposed rule have been made as a result of these comments. The issues addressed by Mr. Glaeser mirror those of Mr. Fischer that were provided on behalf of AmerenUE and the Commission’s responses to these issues are provided in the responses to AmerenUE’s comments.

COMMENT: Warren Wood, Manager, Energy Department of the Public Service Commission stated that the Staff is not opposed to providing clarification in the proposed rule regarding the pass through of cost related to volatility mitigation efforts in the PGA. Further, Staff is not opposed to adding financial swaps and options to section (2) of the rule. Staff believes that both of these recommended changes would provide clarification without distracting attention away from the focus of the proposed rule, which is to consider upward price volatility mitigation in purchasing strategies. Staff is, however, opposed to adding NYMEX to the reference to Futures Contracts in section (2) of the rule to avoid excluding other possible futures contracts that may currently be available or may be developed in the market in the future. Staff is also opposed to replacing “upward” with “price” wherever it appears in the rule. Staff believes that one of the primary concerns of customers being served by an LDC is that of high natural gas prices and/or sudden upward spikes in prices. The Policy Statement of the Natural Gas Commodity Price Task Force created after the winter of 2000–2001 confirms that the focus of this rule should be that of addressing upward price volatility, any efforts to change or dilute that purpose should be resisted by the Commission. Finally, Staff is also opposed to adding index contracts to section (2) of the rule since index contracts are generally not considered effective in addressing upward

price volatility, in fact they are the very contracts that tend to bring upward price volatility into an LDC's purchasing portfolio.

RESPONSE AND EXPLANATION OF CHANGE: In response to the recommended changes of AmerenUE, the Commission will change the proposed rule in a manner that addresses the Staff's comments.

COMMENT: James M. Fischer, Attorney, as attorney for Atmos Energy Corporation, Laclede Gas Company, and Missouri Gas Energy or "Missouri Gas Utilities," noted general support of the proposed rule and suggested several changes. The Missouri Gas Utilities suggested that the following changes to the proposed rule would be appropriate:

1. That the word "upward" should be removed from purpose clause and subsections (1)(A) and (1)(C) of the proposed rule;
2. That the rule specify that cost associated with instruments used to mitigate price volatility be flowed through the PGA mechanism;
3. That the pricing structures listed in section (2) of the proposed rule be expanded to include indexed contracts; and
4. That the reference to "management of price and/or usage volatility" under section (2) of the proposed rule either be revised to not include "usage volatility" or that usage volatility be better defined.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered the comments made by the Missouri Gas Utilities and agrees that some changes to the proposed rule are appropriate.

Missouri Gas Utilities' first comment is that "upward" should be removed from the purpose clause and subsection (1)(A) and (1)(C) of the proposed rule. The Commission has considered this recommendation and cannot support this change to the rule since its purpose is to provide a clear "statement of Commission policy that natural gas local distribution companies should undertake diversified natural gas purchasing activities as part of a prudent effort to mitigate *upward* natural gas price volatility and secure adequate natural gas supplies for their customers" (*emphasis added*). Removing "upward" as recommended by the Missouri Gas Utilities is not consistent with the purpose of this rule or the Policy Statement of the Natural Gas Commodity Price Task Force that it is modeled after. The Commission clarifies the language in subsection (1)(C) by adding, "price".

Missouri Gas Utilities' second comment relates to specifically permitting a pass through of cost associated with natural gas price mitigation efforts in the PGA. The Commission agrees that this clarification is an appropriate addition to the rule and will add a sentence to the end of subsection (1)(B).

Missouri Gas Utilities' third recommended change is that the list of pricing structures, mechanisms and instruments in section (2) of the proposed rule should be expanded to include indexed contracts. The Commission has considered this recommendation and cannot support this change to the rule since section (2) of the rule is intended to provide a list of pricing structures, mechanisms and instruments that natural gas utilities should consider in developing purchasing plans that consider natural gas price volatility mitigation. The Commission's exclusion of indexed contracts from the list in the rule under section (2) does not imply that index contracts are imprudent and/or inappropriate in a well-structured purchasing portfolio, just that the Commission does not consider them a purchasing mechanism for attempting to address upward price volatility.

Missouri Gas Utilities fourth recommended change is that the reference to "management of price and/or usage volatility" under section (2) of the proposed rule either be revised to not include "usage volatility" or that usage volatility be better defined. The Commission has considered this recommendation and believes that the rule's purpose is best served by not changing this referenced language in section (2) of the proposed rule. The referenced provision in the rule is intended to be broad to be inclusive of any tools that now exist or may

be developed to address price and/or usage volatility. When customers, and the utility that serves them, are impacted by price volatility they are often also being impacted by usage volatility. The current language in the rule will permit utilities to consider the usage factor during the usage spikes that often accompany price spikes. Furthermore, making the language of the rule more specific in this area could result in excluding future mechanisms that may be developed in the market. For these reasons the Commission will not change the proposed rule's provisions in this area.

COMMENT: Warren Wood, Manager, Energy Department of the Public Service Commission stated that the staff is not opposed to providing clarification in the proposed rule regarding the pass through of cost related to volatility mitigation efforts in the PGA. Staff believes that this recommended change will provide clarification to the proposed rule. Staff is however opposed to removing references to "upward" wherever price volatility is discussed in the rule. Staff believes that one of the primary concerns of customers being served by an LDC is that of high natural gas prices and/or sudden upward spikes in prices. The Policy Statement of the Natural Gas Commodity Price Task Force created after the winter of 2000-2001 confirms that the focus of this rule should be that of addressing upward price volatility, any efforts to change or dilute that purpose should be resisted by the Commission. Staff is also opposed to adding index contracts to section (2) of the rule since index contracts are generally not considered effective in addressing upward price volatility, in fact they are the very contracts that tend to bring upward price volatility into an LDC's purchasing portfolio. Staff's final opposition to the Missouri Gas Utilities' comments relates to their recommendation to remove "usage volatility" from the provisions of section (2) of the proposed rule. Staff has considered this comment and believes that the intent of the reference to "Other tools utilized in the market for cost-effective management or price and/or usage volatility" is that this be a "catch all" for other tools that may exist now or be developed in the market for addressing volatility—both price and usage. Staff is currently aware of hedging contracts that are keyed off of weather indicators (i.e. Heating Degree-Days). This provides a means to address a portion of the usage volatility that can result from abnormally cold weather. When customers are impacted by price volatility they are often also being impacted by usage volatility. Staff believes the rule should include a reference to usage volatility provisions that gas utilities may be able to consider that would help them deal with this factor during price and/or usage spikes. Staff does not recommend that the language in (2)(G) be made more specific as this could result in the rule being too narrow and no longer applying to market instruments that may be developed in the future.

RESPONSE AND EXPLANATION OF CHANGE: In response to the recommended changes of the Missouri Gas Utilities', the Commission will change the proposed rule in a manner that addresses the Staff's comments.

COMMENT: Janet E. Wheeler, Attorney, as attorney for the Missouri Energy Development Association or "MEDA," noted MEDA's general support of the proposed rule, endorsed the comments filed by various utilities and noted that the proposed rule does not go as far as it could in providing the degree of firm regulatory guidance that may be necessary to produce the sort of benefits described.

RESPONSE: The Commission has responded to each of the suggested changes by the various utilities in the Commission's responses to each of those utilities' comments. No changes have been made to the proposed rule as a result of MEDA's comments.

COMMENT: Rob Hack, attorney for Missouri Gas Energy, clarified that weather derivatives are really designed to protect the margin revenue side of things and not the PGA. They are designed to protect revenue, not bills for customers. Mr. Hack does not see

weather derivatives as a real viable alternative to help the price volatility to customers.

RESPONSE: No changes to the proposed rule have been made to the proposed rule as a result of this comment.

COMMENT: Mike Pendergast, attorney for Laclede Gas Company, in regard to Mr. Hack's comments, noted that weather derivatives are primarily used for margin rather than for going out and trying to protect customers from unusually cold weather and that if this is to be addressed, it ought to be the subject of a separate proceeding. Mr. Pendergast also noted that simply putting the term "usage" in the rule does not adequately address the issue.

RESPONSE: No changes to the proposed rule have been made to the proposed rule as a result of these comments. The recommendation to remove "usage" from section (2) of the rule has been addressed above.

4 CSR 240-40.018 Natural Gas Price Volatility Mitigation

(1) Natural Gas Supply Planning Efforts to Ensure Price Stability.

(A) As part of a prudent planning effort to secure adequate natural gas supplies for their customers, natural gas utilities should structure their portfolios of contracts with various supply and pricing provisions in an effort to mitigate upward natural gas price spikes, and provide a level of stability of delivered natural gas prices.

(B) In making this planning effort, natural gas utilities should consider the use of a broad array of pricing structures, mechanisms, and instruments, including, but not limited to, those items described in (2)(A) through (2)(H), to balance market price risks, benefits, and price stability. Each of these mechanisms may be desirable in certain circumstances, but each has unique risks and costs that require evaluation by the natural gas utility in each circumstance. Financial gains or losses associated with price volatility mitigation efforts are flowed through the Purchased Gas Adjustment (PGA) mechanism, subject to the applicable provisions of the natural gas utility's tariff and applicable prudence review procedures.

(C) Part of a natural gas utility's balanced portfolio may be higher than spot market price at times, and this is recognized as a possible result of prudent efforts to dampen upward price volatility.

(2) Pricing Structures, Mechanisms and Instruments:

- (A) Natural Gas Storage;
- (B) Fixed Price Contracts;
- (C) Call Options;
- (D) Collars;
- (E) Outsourcing/Agency Agreements;
- (F) Futures Contracts;
- (G) Financial Swaps and Options from Over the Counter Markets;

and

(H) Other tools utilized in the market for cost-effective management of price and/or usage volatility.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 10—Air Conservation Commission Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission amends a rule as follows:

10 CSR 10-6.110 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 16, 2003

(28 MoReg 1095-1105). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program (Air Program) received comments on the proposed amendment from thirteen sources: Armstrong Teasdale LLP, Associated General Contractors of Missouri, Inc. (AGC), Associated Industries of Missouri (AIM), Kansas City Health Department Air Quality Program, Springfield-Greene County Health Department Air Quality Control Program, City of St. Louis Air Pollution Control Program, Missouri Limestone Producers Association (MLPA), Patrick O'Driscoll—citizen, Regulatory Environmental Group for Missouri (REGFORM), Sierra Club of Missouri, St. Louis County Department of Health, St. Louis Regional Chamber & Growth Association (RCGA), and U.S. Environmental Protection Agency.

Due to the similarity in the following thirteen (13) comments, one (1) response that addresses these comments can be found at the end of these thirteen (13) comments.

COMMENT: Armstrong Teasdale LLP believes the Commission should fully evaluate the Program's financial situation in light of the recent budget reductions before authorizing an emission fee increase. If the Commission does authorize an emission fee increase, it should be limited to 2004 with a return to thirty-one dollars (\$31) in 2005.

COMMENT: The Kansas City Health Department Air Quality Program supports an emission fee increase. The emission fees provide a substantial portion of the funding for Kansas City Air Program activities. Emission fees are also important because federal funds have been essentially flat for the past few years with the federal government expecting funding to be acquired through regulated industry.

COMMENT: The U.S. Environmental Protection Agency supports an emission fee increase that is necessary to maintain the quality, bare bones operating permit program that industry expects and is entitled to. Without the fee increase, the Air Program may not meet its federal obligations.

COMMENT: REGFORM supports an emission fee increase to thirty-four dollars (\$34) which recognizes the Missouri Emission Inventory System credit of one dollar (\$1) collected for calendar year 2002. The pledge to support a thirty-four dollar (\$34) per ton emission fee is contingent upon the department working closely with regulated entities and their representatives to look at changes that can be made in the Program to bring the fee back down for the next year.

COMMENT: St. Louis Regional Chamber & Growth Association (RCGA) does not challenge an emission fee increase for 2003.

COMMENT: AIM discussed the emission fee situation, agreed with the position of RCGA, acknowledged REGFORM's position, and desired to be identified with the Armstrong Teasdale communications.

COMMENT: The Springfield-Greene County Health Department Air Quality Control Program supports an emission fee increase and the process used to establish the emission fee.

COMMENT: The City of St. Louis Air Pollution Control Program supports an emission fee increase to maintain current levels of protection and service.

COMMENT: The St. Louis County Department of Health supports an emission fee increase to maintain service delivery expected by the public.

COMMENT: The Sierra Club of Missouri supports an emission fee increase. In addition, they commented that the budget reductions incurred by the Missouri Department of Natural Resources and the Air Program have resulted in a leaner organization and that further funding reductions would impair the department's and Air Program's abilities to protect Missouri air quality. Also, all parties interested in breathing clean air need to work together to make a better case to

future General Assemblies about the importance of these programs to protect air quality.

COMMENT: MLPA supports an increase in the emission fee for one year so the Air Program can operate effectively.

COMMENT: Patrick O'Driscoll—citizen supports an emission fee increase to ensure that the air is fit to protect the children of our State as they participate in their outdoor athletic and recreation activities.

COMMENT: AGC supports an emission fee increase to thirty-four dollars (\$34) for 2003 to provide adequate funding of the Air Program. However, they believe the cost savings of permit streamlining are also part of the solution.

RESPONSE AND EXPLANATION OF CHANGE: The Air Program appreciates the business, citizen, governmental, and industry support for an emission fee increase to assist in maintaining a viable air pollution control program for the citizens of Missouri and their children. The emission fees support a quality air pollution control program and help the Air Program meet its federal obligations. The emission fees collected are also an important funding source to the local air agencies that provide air quality protection and service. Because the emission fee is set annually by statute, the fee being established with this rulemaking is for calendar year 2003. The emission fee process is reviewed annually in cooperation with the regulated community to establish an annual fee amount. After considering these comments and recent budget actions, the rule text has been revised to establish a thirty-four dollars and no cents (\$34.00) emission fee per ton of regulated pollutant to be collected for calendar 2003. The fiscal notes are revised to reflect this emission fee increase.

Due to the similarity in the following three (3) comments, one (1) response that addresses these comments can be found at the end of these three (3) comments.

COMMENT: Armstrong Teasdale LLP expressed the hope that the Commission was investigating the General Assembly's right to take the interest earned on permit fees as permit fees are supposed to be dedicated to the Air Program.

COMMENT: REGFORM encouraged the Commission and the Air Program to explore any language that can be added to the proposed amendment or any action that can be taken to diminish the likelihood that dedicated fee funds or the interest earned on those funds would be swept out of the fund and used for other purposes.

COMMENT: RCGA strongly urged the Commission to direct staff to review language governing the use of any existing or new fees to assure that those fees are held and applied for the use intended, for the benefit of the Air Program, and not made available for application to other general revenue purposes. AIM agreed with the RCGA comment.

RESPONSE: The Commission and the Air Program have and are continuing to review the recent actions of the General Assembly relative to the Air Program's fees and interest earned on the fees with the Attorney General's Office. No changes were made to the text as a result of these comments.

Due to the similarity in the following four (4) comments, one (1) response that addresses these comments can be found at the end of these four (4) comments.

COMMENT: Armstrong Teasdale LLP expressed disappointment that a 1997 white paper on Air Program operation improvements had not been responded to by the department or the Air Program. They feel that the permit by rule process is a step forward and other suggestions and ideas should be considered and possibly implemented.

COMMENT: RCGA indicated that there are efficiencies that can be achieved by reexamining the priorities and the operations of the Air Program that would result in potentially appreciable cost savings. AIM agreed with the RCGA comment.

COMMENT: MLPA commented that they have been historically interested in the efficiency of the Air Program and the permitting process and may provide written suggestions regarding these for the Commission and Air Program to consider. They want to continue to consider these kind of options.

COMMENT: AGC made specific comments on streamlining the permitting and the regulatory processes to reduce costs of the department. The specific comments relate to legislative repeal of operating permits for minor emissions sources and full implementation of the Managing for Results Task Force recommendations as presented to the department in March 2002.

RESPONSE: Although no formal response was made to the white paper, the Air Program is currently in the process of considering and implementing efficiencies from the white paper into the program's operation. The Missouri Results Initiative is an example of successful government/industry cooperation to review processes and recommend efficiency improvements. The permit-by-rule process has recently been introduced for small surface coating operations, small printing operations, and crematoriums and animal incinerators. In addition, actions are being considered to: 1) expand and market the exemption list for routine permits, 2) develop a form to determine if a permit is required, 3) create a document to certify that no permit is needed, and 4) accept major credit cards for payment of permit reviews. Although, no changes were made to the rule text as a result of these comments, action is being taken to streamline program processes, implement program efficiencies, and enhance program responsiveness.

Due to the similarity in the following two (2) comments, one (1) response that addresses these comments can be found at the end of these two (2) comments.

COMMENT: RCGA expects that the emission fee for the next year to be based on a collaborative, comprehensive review of the Air Program's operations.

COMMENT: AGC, AIM, and Armstrong Teasdale LLP commented that the department's Air Pollution Control Program should fully evaluate the program's financial situation in a cooperative manner with the regulated community. This evaluation should consider the recent budget reductions with the goal of lowering the emission fee for the next year.

RESPONSE: The Air Program is continually evaluating the Program's financial situation in relation to the recent and potential budget reductions. In addition, the Air Program plans to continue sharing relevant information with the regulated community via emission fee workgroup meetings relative to the annual emission fee. By state statute, the emission fees are set annually to fund the reasonable cost of administering the program. No changes were made to the text as a result of these comments.

10 CSR 10-6.110 Submission of Emission Data, Emission Fees and Process Information

(3) General Provisions.

(D) Emission Fees.

1. Any air contaminant source required to obtain a permit under sections 643.010-643.190, RSMo, except sources that produce charcoal from wood, shall pay an annual emission fee, regardless of their EIQ reporting frequency, of thirty-five dollars and no cents (\$35.00) per ton of regulated air pollutant emitted starting with calendar year 2003 in accordance with the conditions specified in paragraph (3)(D)2. of this rule. For calendar year 2003, the fee shall be reduced by one dollar and no cents (\$1.00) per ton of regulated air pollutant emitted to reflect credit for fees collected for 2002 calendar year emissions for the Missouri Emission Inventory System project. Sources which are required to file reports once every five (5) years may use the information in their most recent EIQ to determine their annual emission fee.

2. General requirements.

A. The fee shall apply to the first four thousand (4,000) tons of each regulated air pollutant emitted. However, no air contaminant source shall be required to pay fees on total emissions of regulated air pollutants in excess of twelve thousand (12,000) tons in any calendar year. A permitted air contaminant source which emitted less than one (1) ton of all regulated pollutants shall pay a fee equal to the amount of one (1) ton.

B. The fee shall be based on the information provided in the facility's EIQ.

C. An air contaminant source which pays emissions fees to a holder of a certificate of authority issued pursuant to section 643.140, RSMo, may deduct those fees from the emission fee due under this section.

D. The fee imposed under paragraph (3)(D)1. of this rule shall not apply to carbon oxide emissions.

E. The fees shall be due April 1 each year for emissions produced during the previous calendar year.

F. The fees shall be payable to the Department of Natural Resources and shall be accompanied by the Emissions Inventory Questionnaire form or equivalent approved by the director.

G. For the purpose of determining the amount of air contaminant emissions on which the fees are assessed, a facility shall be considered one (1) source under the definition of section 643.078.2, RSMo, except that a facility with multiple operating permits shall pay emission fees separately for air contaminants emitted under each individual permit.

3. Fee collection. The annual changes to this rule to establish emission fees for a specific year do not relieve any source from the payment of emission fees for any previous year.

REVISED PUBLIC COST: This proposed amendment will result in an annualized aggregate gain in revenue of seven hundred fifty thousand thirty-six dollars (\$750,036) for the Department of Natural Resources. This gain in revenue takes into account an annualized aggregate cost of one hundred twenty-five thousand seven hundred thirty dollars (\$125,730) for other public entities. Note attached fiscal note for assumptions that apply.

REVISED PRIVATE COST: This proposed amendment will result in an annualized aggregate cost of seven hundred fifty thousand thirty-six dollars (\$750,036) for private entities. Note attached fiscal note for assumptions that apply.

REVISED FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: 10 - Department of Natural Resources

Division: 10 - Air Conservation Commission

Chapter: 6 - Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution
Control Regulations for the Entire State of Missouri

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 10 CSR 10 - 6.110 Submission of Emission Data, Emission Fees and Process
Information

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Misc. Public Entities (listed below)	\$125,730
Missouri Dept. of Natural Resources	\$750,036 Gain In Revenue

Cost estimates are reported as annualized aggregates.

III. WORKSHEET

	FY2004*	FY2005	FY2006	FY2007	FY2008	FY2009
EQ Fees	\$1,334,334	\$1,347,678	\$1,361,154	\$1,374,766	\$1,388,513	\$1,402,399
	FY2010	FY2011	FY2012	FY2013	FY2014*	
	\$1,416,423	\$1,430,587	\$1,444,893	\$1,459,342	\$0	

Total Cost Over 10 Years \$13,960,088
Annualized Aggregate Cost \$1,396,009

		EQ Fee Costs	
		FY2004	FY2005** Annualized Aggregate
EQ Fees (\$34.00 Fee)	\$1,334,334	\$1,347,678	\$1,396,009

		EQ Fee Costs	
		FY2004	FY2005** Annualized Aggregate
EQ Fees (\$31.00 Fee)	\$1,214,159	\$1,226,301	\$1,270,279

Aggregate EQ Fee Cost For This Amendment*** \$125,730

Increase In Public Entity Fee Revenue For This Amendment*** \$875,766

Resulting Gain In Public Entity Fee Revenue For This Amendment*** \$750,036

*See Assumption 3.

**The first full fiscal year for this rulemaking is FY2005.

*** Difference in annualized aggregate costs when raising \$31.00 fee to \$34.00 which is established from a \$35.00 fee with \$1.00 deducted for MoEIS.

List of Affected Entities:

Source Description	Number of Facilities
Gas & Electric	45
Sanitary Services	35
Hospitals	24
Rehabilitation Centers	2
Schools	9
Correctional Facility	5
National Security	6
Post Office	2
Transportation	3
Other	12
Totals	143

IV. ASSUMPTIONS

1. For the convenience of calculating this fiscal note over a reasonable time frame, the life of the rule is assumed to be ten (10) years although the duration of the rule is indefinite. If the life of the rule extends beyond ten years, the annual costs for additional years will be consistent with the assumptions used to calculate annual costs as identified in this fiscal note.
2. The public entity costs are fee collection estimates. The costs are based on the most recent data available to the department and are expected to be more accurate than previous fiscal notes for the same fiscal years.
3. All emission fees for calendar years are assumed to be submitted during the last six (6) months of the fiscal year. For example, costs for all calendar year 2003 emission fees are received by the Missouri Department of Natural Resources between January 1, 2004 and June 30, 2004.
4. Cost and affected entity estimates are based on data presently entered in the tracking systems of the Missouri Department of Natural Resources' Air Pollution Control Program. This data is subject to change as additional information is reviewed, updated, and entered.
5. The \$34.00 per ton fee for public entities is based on a fee of \$35.00 per ton of regulated air pollutant with the one-time credit of \$1.00 per ton of regulated air pollutant deducted for the Missouri Emission Inventory System (MoEIS) project.
6. The emission fees paid by public entities may vary depending on their current information and their chargeable emissions with fees remaining relatively constant. However, new controls decrease the amount of their emission fees.
7. The Emission Inventory Questionnaire (EIQ) fees are assumed to increase by 1% from FY2004 to FY2005.
8. Compliance and EIQ preparation costs reported on EIQs are not included in this fiscal note because these costs are not a result of this rulemaking. Compliance and preparation costs have been included in fiscal notes for the rulemakings that implemented these requirements.
9. The aggregate gain in public entity fee revenue for the Missouri Department of Natural Resources' Air Pollution Control Program is directly related to the difference in emission fees. The net gain in revenue is equivalent to the amount of gain realized by both public and private entities paying emission fees.

REVISED FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 10 - Department of Natural Resources

Division: 10 - Air Conservation Commission

Chapter: Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution
Control Regulations for the Entire State of Missouri

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 10 CSR 10 - 6.110 Submission of Emission Data, Emission Fees and Process
Information

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
2,573 Facilities (listed below)	Listed below	\$750,036

Cost estimates are reported as annualized aggregates.

III. WORKSHEET

	FY2004*	FY2005	FY2006	FY2007	FY2008	FY2009
ElQ Fees	\$7,952,518	\$8,032,043	\$8,112,363	\$8,193,487	\$8,275,422	\$8,358,176

FY2010	FY2011	FY2012	FY2013	FY2014*
\$8,441,758	\$8,526,175	\$8,611,437	\$8,697,552	\$0

Total Cost Over 10 Years	\$83,200,931
Annualized Aggregate Cost	\$8,320,093

	FY2004	ElQ Fee Costs FY2005**	Annualized Aggregate
ElQ Fees (\$34.00 Fee)	\$7,952,518	\$8,032,043	\$8,320,093

	FY2004	ElQ Fee Costs FY2005**	Annualized Aggregate
ElQ Fees (\$31.00 Fee)	\$7,235,618	\$7,307,974	\$7,570,057

Total Aggregate Cost For This Amendment*** \$750,036

*See Assumption 3.

** The first full fiscal year for this rulemaking is FY2005.

*** Difference in annualized aggregate costs when raising \$31.00 fee to \$34.00 which is established

List of Affected Entities:

SIC Code	SIC Description	Number of Facilities
01	AGRICULTURAL PRODUCTION CROPS	0
02	AGRICULTURAL PRODUCTION LIVESTOCK AND ANIMAL SPECIALTIES	2
07	AGRICULTURAL SERVICES	46
10	METAL MINING	11
12	COAL MINING	5
14	MINING AND QUARRYING OF NONMETALLIC MINERALS, EXCEPT FUELS	348
15	BUILDING CONSTRUCTION GENERAL CONTRACTORS AND OPERATIVE	18
16	HEAVY CONSTRUCTION OTHER THAN BUILDING CONSTRUCTION	5
17	CONSTRUCTION SPECIAL TRADE CONTRACTORS	4
20	FOOD AND KINDRED PRODUCTS	129
21	TOBACCO PRODUCTS	1
22	TEXTILE MILL PRODUCTS	1
23	APPAREL AND OTHER FINISHED PRODUCTS MADE FROM FABRICS	2
24	LUMBER AND WOOD PRODUCTS, EXCEPT FURNITURE	67
25	FURNITURE AND FIXTURES	24
26	PAPER AND ALLIED PRODUCTS	22
27	PRINTING, PUBLISHING, AND ALLIED INDUSTRIES	66
28	CHEMICALS, BRIQUETS, PAINTS	157
29	PETROLEUM REFINING AND RELATED INDUSTRIES	130
30	RUBBER AND MISCELLANEOUS PLASTICS PRODUCTS	56
31	LEATHER AND LEATHER PRODUCTS	6

SIC Code	SIC Description	Number of Facilities
32	STONE, CLAY, GLASS, AND CONCRETE PRODUCTS	338
33	PRIMARY METAL INDUSTRIES	55
34	FABRICATED METAL PRODUCTS, EXCEPT MACHINERY AND TRANSPORTATION	89
35	INDUSTRIAL AND COMMERCIAL MACHINERY AND COMPUTER EQUIPMENT	50
36	ELECTRONIC AND OTHER ELECTRICAL EQUIPMENT AND COMPONENTS	42
37	TRANSPORTATION EQUIPMENT	60
38	MEASURING, ANALYZING, AND CONTROLLING INSTRUMENTS	6
39	MISCELLANEOUS MANUFACTURING INDUSTRIES	21
40	RAILROAD TRANSPORTATION	0
41	LOCAL AND SUBURBAN TRANSIT AND INTERURBAN HIGHWAY PASSENGER	1
42	MOTOR FREIGHT TRANSPORTATION AND WAREHOUSING	21
44	WATER TRANSPORTATION	4
45	TRANSPORTATION BY AIR	4
46	PIPELINES, EXCEPT NATURAL GAS	20
47	TRANSPORTATION SERVICES	3
48	COMMUNICATIONS	2
49	ELECTRIC, GAS, SANITARY SERVICES, AND LANDFILLS	120
50	WHOLESALE TRADE-DURABLE GOODS	22
51	WHOLESALE TRADE-NON-DURABLE GOODS	162
52	LUMBER/HARDWARE	1
54	FOOD STORES	0
55	AUTOMOTIVE DEALERS AND GASOLINE SERVICE STATIONS	2
57	HOME FURNITURE, FURNISHINGS, AND EQUIPMENT STORES	0

SIC Code	SIC Description	Number of Facilities
59	MISCELLANEOUS RETAIL	1
60	BANK	0
63	INSURANCE CARRIERS	0
65	REAL ESTATE	0
70	HOTELS, ROOMING HOUSES, CAMPS, AND OTHER LODGING PLACES	1
72	PERSONAL SERVICES AND DRY CLEANERS	379
73	BUSINESS SERVICES	5
75	AUTOMOTIVE REPAIR, SERVICES, AND PARKING	7
76	MISCELLANEOUS REPAIR SERVICES	4
80	HEALTH SERVICES	39
82	EDUCATIONAL SERVICES	7
83	NURSE HOME	2
84	MUSEUMS, ART GALLERIES, AND BOTANICAL AND ZOOLOGICAL GARDENS	0
87	ENGINEERING, ACCOUNTING, RESEARCH, MANAGEMENT, AND RELATED	1
91	EXECUTIVE, LEGISLATIVE, AND GENERAL GOVERNMENT, EXCEPT FINANCE	0
92	CORRECTIONS	2
95	ADMINISTRATION OF ENVIRONMENTAL QUALITY AND HOUSING PROGRAMS	0
97	MILITARY	2
Total Facilities		2,573

IV. ASSUMPTIONS

1. For the convenience of calculating this fiscal note over a reasonable time frame, the life of the rule is assumed to be ten (10) years although the duration of the rule is indefinite. If the life of the rule extends beyond ten years, the annual costs for additional years will be consistent with the assumptions used to calculate annual costs as identified in this fiscal note.
2. The private entity costs are fee collection estimates. The costs are based on the most recent data available to the department and are expected to be more accurate than previous fiscal notes for the same fiscal years.

3. All emission fees for calendar years are assumed to be submitted during the last six (6) months of the fiscal year. For example, costs for all calendar year 2003 emission fees are received by the Missouri Department of Natural Resources between January 1, 2004 and June 30, 2004.
4. Cost and affected entity estimates are based on data presently entered in the tracking systems of the Missouri Department of Natural Resources' Air Pollution Control Program. This data is subject to change as additional information is reviewed, updated, and entered.
5. The \$34.00 per ton fee for private entities is based on a fee of \$35.00 per ton of regulated air pollutant with the one-time credit of \$1.00 per ton of regulated air pollutant deducted for the Missouri Emission Inventory System (MoEIS) project.
6. The emission fees paid by private entities may vary depending on their current information and their chargeable emissions with fees remaining relatively constant. However, new controls decrease the amount of their emission fees.
7. The Emission Inventory Questionnaire (EIQ) fees are assumed to increase by 1% from FY2004 to FY2005.
8. Compliance and EIQ preparation costs reported on EIQs are not included in this fiscal note because these costs are not a result of this rulemaking. Compliance and preparation costs have been included in fiscal notes for the rulemakings that implemented these requirements.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 12—Hazardous Waste Fees and Taxes**

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under section 260.479 RSMo Supp. 2003, the commission amends a rule as follows:

10 CSR 25-12.010 Fees and Taxes is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2003 (28 MoReg pages 874–877). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF TESTIMONY: During the public hearing before the Missouri Hazardous Waste Management Commission on June 3, 2003, the department testified that section 260.479, RSMo establishes the category tax paid by generators of hazardous waste, including minimum annual amounts, individual site caps, and a company cap. Currently the minimum annual amount is fifty-one dollars and twenty-eight cents (\$51.28), the individual site caps are forty-one thousand and twenty dollars (\$41,020) or eighty-two thousand forty dollars (\$82,040) annually depending on the waste disposal method used, and the company cap is eighty-two thousand forty dollars (\$82,040) annually. The department further testified that the commission is authorized to increase these amounts annually, via the rulemaking process, by as much as 2.55%.

SUMMARY OF COMMENTS: Mr. Kevin Perry, President of the Regulatory Environmental Group For Missouri (REGFORM) testified on behalf of the members of his organization, which represents companies from all over Missouri strictly on environmental regulation issues. Mr. Perry also submitted written comments on behalf of REGFORM. In addition to REGFORM, two (2) other organizations submitted written comments expressing opposition to the proposed amendment. The Executive Director of Recycle Missouri, Inc. submitted written comments on behalf of his members and the Vice President of Government Affairs for Associated Industries of Missouri (AIM) submitted written comments on behalf of the AIM members.

COMMENT: For various reasons, REGFORM, Recycle Missouri, Inc., and AIM requested that the Department of Natural Resources and the members of the Hazardous Waste Management Commission consider not increasing the category tax as proposed and instead take the appropriate action to keep the tax at its current level. REGFORM pointed out that the financial hardships experienced by the department are just as serious as the difficulties experienced by its members who pay the tax and that additional taxes would only add to those difficulties. Additionally, each of the commenters pointed out that the same legislation that gave the commission the authority to increase the category tax included a provision that required the department to seek an annual appropriation of one (1) million dollars of general revenue to the Hazardous Waste Remedial Fund. The commitment to seek general revenue was in recognition of the fact that the fund supports projects and programs considered to benefit the general public. The department met its commitment to request the appropriation of general revenue but the legislature was unable to fulfill that request. The commenters pointed out that, not only has the legislature failed to appropriate the general revenue requested by the department, the General Assembly has actually withdrawn interest generated on the funds in the remedial fund to use for general revenue purposes. The commenters suggested that this indicates a

determination by the legislature that the purposes of the remedial fund are not a priority in relation to other needs of the state. Recycle Missouri, Inc. and AIM suggested that because there is no indication that the legislature wishes to raise taxes to increase general revenue the commission should also not increase taxes in this time of a struggling economy.

RESPONSE: The Hazardous Waste Program is experiencing financial hardships similar to those expressed by commenters and has been holding positions vacant in part to ease budgetary pressures. The program anticipates that failure to increase this fee could postpone filling of a technical position vacancy for an additional year. The consequences of this could include inability to conduct timely reviews on Brownfields/Voluntary Cleanup Program, Superfund, or permitting projects.

The commission acknowledges that business owners who pay the category tax are experiencing the same hardships that the state is experiencing. The commission also acknowledges that the annual appropriation of one (1) million dollars from general revenue to the remedial fund has not been available because of the state budget situation. However, even with the increase authorized by the commission last year, category tax revenues continue to fall short of projections while the need remains the same. Those projections were established by the legislature to represent the amount that those subject to the category tax should pay into the remedial fund. The lack of general revenue did not factor into the request to increase the category tax rates.

The commission is sensitive to the concerns of those paying the category tax, including the membership of REGFORM, Recycle Missouri, Inc., and AIM. The commission acknowledges that, when those paying the category tax into the remedial fund see those funds appropriated for general revenue purposes, it may seem that they are paying more than their share. Nevertheless, because the funding continues to fall short of projections that were agreed to and identified as necessary, no changes were made as a result of the testimony and comments in opposition to the proposed amendment.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 23—Motor Vehicle**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under sections 306.400 and 306.410, RSMo Supp. 2003, the director adopts a rule as follows:

12 CSR 10-23.456 Marine Application for Title is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on July 1, 2003 (28 MoReg 1189). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE
Division 400—Life, Annuities and Health
Chapter 4—Long-Term Care**

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance under section 374.045, RSMo 2000, the director rescinds a rule as follows:

20 CSR 400-4.100 Long-Term Care is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on April 15, 2003 (28 MoReg 777-778). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective **January 1, 2004**.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE
Division 400—Life, Annuities and Health
Chapter 4—Long-Term Care**

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance under section 374.045, RSMo 2000, the director adopts a rule as follows:

20 CSR 400-4.100 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on April 15, 2003 (28 MoReg 778-807). Those sections with changes are reprinted here. This proposed rule becomes effective on **January 1, 2004**.

SUMMARY OF COMMENTS: The Missouri Department of Insurance (MDI) received three (3) comments on the proposed rule.

COMMENT: It was requested that the MDI retain language from section 15C of the National Association of Insurance Commissioners (NAIC) Model regulation, which addressed reporting requirements for long-term care insurers.

RESPONSE AND EXPLANATION OF CHANGE: The language contained in section 15C of the NAIC Model regulation will be added to the proposed rule as requested.

COMMENT: It was suggested that the regulation should be changed to give insurers additional time after the proposed regulation becomes effective to modify their forms and develop rates and actuarial support in consideration of the changes made by the regulation.

It was also suggested that the MDI clarify what documents and supporting information must be filed for currently approved forms.

RESPONSE AND EXPLANATION OF CHANGE: The language of the proposed regulation will be changed so that the effective date of the regulation will be January 1, 2004.

Because the request to clarify what the MDI will require for currently approved forms appears to ask for an interpretation of the proposed language and not a change in the wording of the proposed rule, no changes will be made.

COMMENT: It was pointed out that under the Department of Health and Senior Services regulations, an adult day care program must provide care to at least five (5) functionally impaired adults. The proposed rule sets that minimum at six (6) adults. Therefore, the proposed rule should be modified to be consistent with the licensing regulation that deals with the same type of program or facility.

RESPONSE AND EXPLANATION OF CHANGE: The proposed rule's definition of adult day care facility will be modified to be consistent with Missouri law dealing with adult day care facility licensing.

20 CSR 400-4.100 Long-Term Care Insurance

(1) Applicability and Scope.

(A) Except as otherwise specifically provided, this regulation applies to all long-term care insurance policies, including qualified

long-term care contracts and life insurance policies that accelerate benefits for long-term care delivered or issued for delivery in this state on or after January 1, 2004, by insurers, fraternal benefit societies, nonprofit health, hospital and medical service corporations, prepaid health plans, health maintenance organizations and all similar organizations. Certain provisions of this regulation apply only to qualified long-term care insurance contracts as noted.

(3) Policy Definitions. No long-term care insurance policy delivered or issued for delivery in this state shall use the terms set forth below, unless the terms are defined in the policy and the definitions satisfy the following requirements:

(C) "Adult day care" means a program for five (5) or more individuals, of social and health-related services provided during the day in a community group setting for the purpose of supporting frail, impaired elderly or other disabled adults who can benefit from care in a group setting outside the home.

(13) Reporting Requirements.

(C) Reported replacement and lapse rates do not alone constitute a violation of insurance laws or necessarily imply wrongdoing. The reports are for the purpose of reviewing more closely producer activities regarding the sale of long-term care insurance.

(D) Every insurer shall report, annually by June 30, the ten percent (10%) of its producers with the greatest percentages of lapses and replacements as measured by subsection (A) of this section, above. The required report is printed as Appendix G to this regulation, which is included herein.

(E) Every insurer shall report annually by June 30, by completing Appendix G, the number of lapsed policies as a percent of its total annual sales and as a percent of its total number of policies in force as of the end of the preceding calendar year.

(F) Every insurer shall report annually by June 30, by completing Appendix G, the number of replacement policies sold as a percent of its total annual sales and as a percent of its total number of policies in force as of the preceding calendar year.

(G) Every insurer shall report annually by June 30, for qualified long-term care insurance contracts, the number of claims denied for each class of business, expressed as a percentage of claims denied. The required report is printed as Appendix E to this regulation, which is included herein.

(H) Reports required under this section shall be filed with the director.

This section may contain notice of hearings, correction notices, public information notices, rule action notices, statements of actual costs and other items required to be published in the *Missouri Register* by law.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 100—Division of Credit Unions**

**ACTIONS TAKEN ON
APPLICATIONS FOR NEW GROUPS OR
GEOGRAPHIC AREAS**

Pursuant to section 370.081(4), RSMo 2000, the director of the Missouri Division of Credit Unions is required to cause notice to be published that the director has either granted or rejected applications from the following credit unions to add new groups or geographic areas to their membership and state the reasons for taking these actions.

The following applications have been granted. These credit unions have met the criteria applied to determine if additional groups may be included in the membership of an existing credit union and have the immediate ability to serve the proposed new groups or geographic areas. The proposed new groups or geographic areas meet the requirements established pursuant to section 370.080(2), RSMo 2000.

Credit Union	Proposed New Group or Geographic Area
Raytown-Lee's Summit Community Credit Union 10021 E. 66th Terrace Raytown, MO 64133	Those who live or work within the zip codes of the Raytown School District: 64055, 64133, 64138, 64052, 64129 and Lee's Summit School District: 64034, 64082, 64081, 64063, 64064, 64086

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 100—Division of Credit Unions**

**APPLICATIONS FOR NEW GROUPS OR
GEOGRAPHIC AREAS**

Pursuant to section 370.081(4), RSMo 2000, the director of the Missouri Division of Credit Unions is required to cause notice to be published that the following credit unions have submitted applications to add new groups or geographic areas to their membership.

Credit Union	Proposed New Group or Geographic Area
Edison Credit Union 4200 E. Front Street Kansas City, MO 64120	Active or retired employees of: Townsend Communications, LLC., United Country Real Estate, Occu-Tec, Inc., O'Dell Service, North Kansas City Electric, TimberKing, Inc., Data Source, Inc., Custom Lighting Services Immediate family members and household of members.

NOTICE TO SUBMIT COMMENTS: *Anyone may file a written statement in support of or in opposition to any of these applications.*

Comments shall be filed with: Director, Division of Credit Unions, PO Box 1607, Jefferson City, MO 65102. To be considered, written comments must be submitted no later than ten (10) business days after publication of this notice in the Missouri Register.

**Title 19—DEPARTMENT OF HEALTH AND
SENIOR SERVICES
Division 60—Missouri Health Facilities
Review Committee
Chapter 50—Certificate of Need Program
APPLICATION REVIEW SCHEDULE**

The Missouri Health Facilities Review Committee has initiated review of the applications listed below. A decision is tentatively scheduled for the December 1, 2003, Certificate of Need meeting. These applications are available for public inspection at the address shown below:

Date Filed

Project Number: Project Name
City (County)
Cost, Description

08/13/03

#3514 HS: Select Specialty Hospital—St. Louis
St. Louis (St. Louis City)
\$3,460,654, Establish 36-bed long-term care hospital

09/05/03

#3537 HS: Southeast Missouri Hospital
Cape Girardeau (Cape Girardeau County)
\$2,700,000, Acquire radiosurgery system

Any person wishing to request a public hearing for the purpose of commenting on any of these applications must submit a written request to this effect, which must be received by October 22, 2003. All written requests and comments should be sent to:

Chairman
Missouri Health Facilities Review Committee
c/o Certificate of Need Program
915 G Leslie Boulevard
Jefferson City, MO 65101

For additional information contact
Donna Schuessler, (573) 751-6403.

Contractor Debarment List

Name of Contractor	Name of Officer and Title	Address	Date of Conviction	Debarment Period
Bruner Contracting Company	Cynthia Bruner	218 Delaware, Ste. 211 Kansas City, MO 64105	9/9/03	9/9/03-9/9/04
Cynthia Bruner	N/A	218 Delaware, Ste. 211 Kansas City, MO 64105	9/9/03	9/9/03-9/9/04

Rule Changes Since Update to Code of State Regulations

This cumulative table gives you the latest status of rules. It contains citations of rulemakings adopted or proposed after deadline for the monthly Update Service to the *Code of State Regulations*, citations are to volume and page number in the *Missouri Register*, except for material in this issue. The first number in the table cite refers to the volume number or the publication year—26 (2001), 27 (2002) and 28 (2003). MoReg refers to *Missouri Register* and the numbers refer to a specific *Register* page, R indicates a rescission, W indicates a withdrawal, S indicates a statement of actual cost, T indicates an order terminating a rule, N.A. indicates not applicable, RUC indicates a rule under consideration, and F indicates future effective date.

Rule Number	Agency	Emergency	Proposed	Order	In Addition
OFFICE OF ADMINISTRATION					
1 CSR 10	State Officials' Salary Compensation Schedule				27 MoReg 189 27 MoReg 1724 28 MoReg 1861
1 CSR 10-4.010	Commissioner of Administration		28 MoReg 1557		
1 CSR 10-18.010	Commissioner of Administration	28 MoReg 1615	28 MoReg 1482		
1 CSR 15-3.320	Administrative Hearing Commission		28 MoReg 1266	28 MoReg 1841	
1 CSR 15-3.350	Administrative Hearing Commission		28 MoReg 1266	28 MoReg 1841	
1 CSR 20-2.015	Personnel Advisory Board and Division of Personnel		28 MoReg 1560		
1 CSR 20-3.070	Personnel Advisory Board and Division of Personnel		28 MoReg 1560		
1 CSR 20-5.020	Personnel Advisory Board and Division of Personnel		28 MoReg 1561		
DEPARTMENT OF AGRICULTURE					
2 CSR 30-2.040	Animal Health		28 MoReg 711		
2 CSR 30-9.020	Animal Health		28 MoReg 1085	This Issue	
2 CSR 30-9.030	Animal Health		28 MoReg 1086		
2 CSR 70-13.030	Plant Industries	28 MoReg 1553	28 MoReg 1561		
2 CSR 100-6.010	Missouri Agriculture and Small Business Development Authority		28 MoReg 1762		
DEPARTMENT OF CONSERVATION					
3 CSR 10-1.010	Conservation Commission		28 MoReg 1483		
3 CSR 10-4.111	Conservation Commission		28 MoReg 1088	28 MoReg 1512	
3 CSR 10-5.352	Conservation Commission		28 MoReg 1267	28 MoReg 1718	
3 CSR 10-5.552	Conservation Commission		28 MoReg 1270	28 MoReg 1718	
3 CSR 10-5.553	Conservation Commission		28 MoReg 1273	28 MoReg 1718	
3 CSR 10-5.577	Conservation Commission		28 MoReg 1275	28 MoReg 1718	
3 CSR 10-5.578	Conservation Commission		28 MoReg 1277	28 MoReg 1719	
3 CSR 10-7.410	Conservation Commission		28 MoReg 1088	28 MoReg 1512	
3 CSR 10-7.440	Conservation Commission		N.A.	28 MoReg 1841	
3 CSR 10-7.455	Conservation Commission		28 MoReg 1089	28 MoReg 1512	
3 CSR 10-8.515	Conservation Commission		N.A.	28 MoReg 1512	
3 CSR 10-9.110	Conservation Commission		28 MoReg 1089	28 MoReg 1513	
3 CSR 10-9.442	Conservation Commission		N.A.	28 MoReg 1843	
3 CSR 10-11.160	Conservation Commission		28 MoReg 1089	28 MoReg 1513	
3 CSR 10-11.180	Conservation Commission		28 MoReg 1090	28 MoReg 1513	
			N.A.	28 MoReg 1513	
3 CSR 10-11.182	Conservation Commission		28 MoReg 1090	28 MoReg 1514	
			28 MoReg 1279	28 MoReg 1719	
3 CSR 10-11.186	Conservation Commission		28 MoReg 1091	28 MoReg 1514	
3 CSR 10-11.205	Conservation Commission		28 MoReg 1091	28 MoReg 1514	
3 CSR 10-12.110	Conservation Commission		28 MoReg 1092	28 MoReg 1514	
3 CSR 10-12.135	Conservation Commission		28 MoReg 1092	28 MoReg 1514	
			N.A.	28 MoReg 1719	
3 CSR 10-12.140	Conservation Commission		28 MoReg 1093	28 MoReg 1515	
			N.A.	28 MoReg 1719	
3 CSR 10-20.805	Conservation Commission		28 MoReg 1279	28 MoReg 1720W	
DEPARTMENT OF ECONOMIC DEVELOPMENT					
4 CSR 30-3.020	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		28 MoReg 1483R		
4 CSR 30-3.030	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		28 MoReg 1483R		
4 CSR 30-3.040	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		28 MoReg 1484R		
4 CSR 30-3.050	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		28 MoReg 1484R		
4 CSR 30-3.060	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		28 MoReg 1484		
4 CSR 30-4.060	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		28 MoReg 1762R 28 MoReg 1763		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
4 CSR 30-4.090	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		28 MoReg 1765		
4 CSR 30-5.140	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		28 MoReg 1767		
4 CSR 30-5.150	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		28 MoReg 1767		
4 CSR 30-6.015	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		28 MoReg 1769		
4 CSR 30-6.020	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		28 MoReg 1769		
4 CSR 30-16.020	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		28 MoReg 852	28 MoReg 1515	
4 CSR 30-16.030	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		28 MoReg 853	28 MoReg 1515	
4 CSR 30-16.040	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		28 MoReg 854	28 MoReg 1515	
4 CSR 30-16.060	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		28 MoReg 855	28 MoReg 1515	
4 CSR 30-16.070	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		28 MoReg 855	28 MoReg 1516	
4 CSR 30-16.080	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		28 MoReg 855	28 MoReg 1516	
4 CSR 30-16.090	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		28 MoReg 856	28 MoReg 1516	
4 CSR 30-16.100	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		28 MoReg 856	28 MoReg 1516	
4 CSR 60-1.040	State Board of Barber Examiners		28 MoReg 1487		
4 CSR 60-4.015	State Board of Barber Examiners		28 MoReg 1491		
4 CSR 70-1.010	State Board of Chiropractic Examiners		28 MoReg 1491R		
4 CSR 70-2.020	State Board of Chiropractic Examiners		28 MoReg 1492		
4 CSR 70-2.030	State Board of Chiropractic Examiners		28 MoReg 1492		
4 CSR 70-2.040	State Board of Chiropractic Examiners		28 MoReg 1492		
4 CSR 70-2.045	State Board of Chiropractic Examiners		28 MoReg 1495		
4 CSR 70-2.050	State Board of Chiropractic Examiners		28 MoReg 1495		
4 CSR 70-2.060	State Board of Chiropractic Examiners		28 MoReg 1496		
4 CSR 70-2.065	State Board of Chiropractic Examiners		28 MoReg 1499		
4 CSR 70-2.070	State Board of Chiropractic Examiners		28 MoReg 1499		
4 CSR 70-2.080	State Board of Chiropractic Examiners		28 MoReg 1500		
4 CSR 70-2.081	State Board of Chiropractic Examiners		28 MoReg 1501		
4 CSR 70-2.090	State Board of Chiropractic Examiners		28 MoReg 1502		
4 CSR 70-2.100	State Board of Chiropractic Examiners		28 MoReg 1505		
4 CSR 70-3.010	State Board of Chiropractic Examiners		28 MoReg 1506		
4 CSR 100	Division of Credit Unions				28 MoReg 1219 28 MoReg 1391 28 MoReg 1526 28 MoReg 1723 This Issue
4 CSR 100-2.080	Division of Credit Unions		28 MoReg 1279	This Issue	
4 CSR 115-1.040	State Committee of Dietitians		28 MoReg 1280		
4 CSR 150-2.080	State Board of Registration for the Healing Arts		28 MoReg 1507		
4 CSR 150-3.080	State Board of Registration for the Healing Arts		28 MoReg 1282		
4 CSR 150-3.170	State Board of Registration for the Healing Arts		28 MoReg 1284		
4 CSR 200-4.021	State Board of Nursing		28 MoReg 1286		
4 CSR 200-4.100	State Board of Nursing		28 MoReg 1286		
4 CSR 220-5.020	State Board of Pharmacy		28 MoReg 1177		
4 CSR 231-2.010	Division of Professional Registration		28 MoReg 1286		
4 CSR 232-3.010	Missouri State Committee of Interpreters		28 MoReg 1769		
4 CSR 240-3.155	Public Service Commission		28 MoReg 1507		
4 CSR 240-3.180	Public Service Commission		28 MoReg 1024	This Issue	
4 CSR 240-3.250	Public Service Commission		28 MoReg 1028	This Issue	

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4 CSR 240-3.265	Public Service Commission		This Issue		
4 CSR 240-3.440	Public Service Commission		This Issue		
4 CSR 240-3.650	Public Service Commission		This Issue		
4 CSR 240-32.180	Public Service Commission	This Issue			
4 CSR 240-32.190	Public Service Commission	This Issue			
4 CSR 240-40.018	Public Service Commission		28 MoReg 1032	This Issue	
4 CSR 250-3.020	Missouri Real Estate Commission		28 MoReg 1770		
4 CSR 250-8.160	Missouri Real Estate Commission		28 MoReg 1770		
4 CSR 250-10.010	Missouri Real Estate Commission		28 MoReg 1770		
4 CSR 267-4.020	Office of Tattooing, Body Piercing and Branding	28 MoReg 947			
DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION					
5 CSR 30-261.010	Division of Administrative and Financial Services		28 MoReg 1180		
5 CSR 50-310.010	Division of School Improvement		28 MoReg 1039R	28 MoReg 1720R	
5 CSR 50-340.110	Division of School Improvement		28 MoReg 1039	28 MoReg 1720	
5 CSR 50-340.200	Division of School Improvement		28 MoReg 1040	28 MoReg 1720	
5 CSR 50-350.015	Division of School Improvement		28 MoReg 1042R	28 MoReg 1721R	
5 CSR 50-360.010	Division of School Improvement		28 MoReg 1042R	28 MoReg 1721R	
5 CSR 50-370.010	Division of School Improvement		28 MoReg 1042R	28 MoReg 1721R	
5 CSR 60-120.020	Vocational and Adult Education		28 MoReg 1181		
5 CSR 60-900.050	Vocational and Adult Education		28 MoReg 1093		
5 CSR 70-742.160	Special Education		28 MoReg 1042R	28 MoReg 1721R	
5 CSR 80-800.200	Teacher Quality and Urban Education		28 MoReg 1771		
5 CSR 80-800.220	Teacher Quality and Urban Education		28 MoReg 1774		
5 CSR 80-800.230	Teacher Quality and Urban Education		28 MoReg 1776		
5 CSR 80-800.260	Teacher Quality and Urban Education		28 MoReg 1779		
5 CSR 80-800.270	Teacher Quality and Urban Education		28 MoReg 1782		
5 CSR 80-800.280	Teacher Quality and Urban Education		28 MoReg 1784		
5 CSR 80-800.290	Teacher Quality and Urban Education		28 MoReg 1786		
5 CSR 80-800.300	Teacher Quality and Urban Education		28 MoReg 1786		
5 CSR 80-800.350	Teacher Quality and Urban Education		28 MoReg 1787		
5 CSR 80-800.360	Teacher Quality and Urban Education		28 MoReg 1790		
5 CSR 80-800.370	Teacher Quality and Urban Education		28 MoReg 1793		
5 CSR 80-800.380	Teacher Quality and Urban Education		28 MoReg 1796		
5 CSR 80-800.400	Teacher Quality and Urban Education		28 MoReg 1800		
5 CSR 90-4.410	Vocational Rehabilitation		28 MoReg 864	28 MoReg 1568	
5 CSR 90-4.420	Vocational Rehabilitation		28 MoReg 864	28 MoReg 1568	
5 CSR 90-5.410	Vocational Rehabilitation		28 MoReg 864	28 MoReg 1568	
5 CSR 90-5.420	Vocational Rehabilitation		28 MoReg 867	28 MoReg 1568	
5 CSR 90-5.440	Vocational Rehabilitation		28 MoReg 869	28 MoReg 1569	
5 CSR 90-7.010	Vocational Rehabilitation		28 MoReg 1800		
5 CSR 90-7.100	Vocational Rehabilitation		28 MoReg 1801		
5 CSR 90-7.200	Vocational Rehabilitation		28 MoReg 1801		
5 CSR 90-7.320	Vocational Rehabilitation		28 MoReg 1802		
5 CSR 100-200.045	Missouri Commission for the Deaf and Hard of Hearing	28 MoReg 1554	28 MoReg 1563		
DEPARTMENT OF HIGHER EDUCATION					
6 CSR 10-6.010	Commissioner of Higher Education		28 MoReg 956	28 MoReg 1516	
DEPARTMENT OF TRANSPORTATION					
7 CSR 10-3.040	Missouri Highways and Transportation Commission	28 MoReg 1173R	28 MoReg 1182R		
7 CSR 10-6.010	Missouri Highways and Transportation Commission		28 MoReg 958	28 MoReg 1843	
7 CSR 10-6.015	Missouri Highways and Transportation Commission		28 MoReg 958	28 MoReg 1843	
7 CSR 10-6.020	Missouri Highways and Transportation Commission		28 MoReg 960	28 MoReg 1844	
7 CSR 10-6.030	Missouri Highways and Transportation Commission		28 MoReg 960	28 MoReg 1844	
7 CSR 10-6.040	Missouri Highways and Transportation Commission		28 MoReg 961	28 MoReg 1845	
7 CSR 10-6.050	Missouri Highways and Transportation Commission		28 MoReg 963	28 MoReg 1845	
7 CSR 10-6.060	Missouri Highways and Transportation Commission		28 MoReg 963	28 MoReg 1845	
7 CSR 10-6.070	Missouri Highways and Transportation Commission		28 MoReg 964	28 MoReg 1845	
7 CSR 10-6.080	Missouri Highways and Transportation Commission		28 MoReg 966	28 MoReg 1845	
7 CSR 10-6.085	Missouri Highways and Transportation Commission		28 MoReg 967	28 MoReg 1845	
7 CSR 10-6.090	Missouri Highways and Transportation Commission		28 MoReg 968	28 MoReg 1846	

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7 CSR 10-6.100	Missouri Highways and Transportation Commission		28 MoReg 968	28 MoReg 1846	
7 CSR 10-17.010	Missouri Highways and Transportation Commission		28 MoReg 1563		
7 CSR 10-25.010	Missouri Highways and Transportation Commission	28 MoReg 1173	28 MoReg 1182		
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS					
8 CSR 10-3.085	Division of Employment Security		28 MoReg 1661		
8 CSR 10-3.130	Division of Employment Security	28 MoReg 948	28 MoReg 969	28 MoReg 1519	
DEPARTMENT OF MENTAL HEALTH					
9 CSR 10-5.200	Director, Department of Mental Health		28 MoReg 1094		
9 CSR 10-5.220	Director, Department of Mental Health	28 MoReg 847	28 MoReg 873	28 MoReg 1519	
9 CSR 10-7.090	Director, Department of Mental Health	28 MoReg 848	28 MoReg 873	28 MoReg 1519	
9 CSR 25-2.005	Fiscal Management		28 MoReg 1371		
9 CSR 25-2.105	Fiscal Management		28 MoReg 1372		
9 CSR 25-2.205	Fiscal Management		28 MoReg 1373R		
9 CSR 25-2.305	Fiscal Management		28 MoReg 1373		
9 CSR 25-2.405	Fiscal Management		28 MoReg 1375		
9 CSR 30-3.032	Certification Standards	28 MoReg 848	28 MoReg 874	28 MoReg 1519	
9 CSR 30-3.132	Certification Standards		28 MoReg 1376		
9 CSR 30-3.206	Certification Standards		28 MoReg 1508		
9 CSR 30-3.208	Certification Standards		28 MoReg 1508		
9 CSR 45-5.060	Division of Mental Retardation and Developmental Disabilities	28 MoReg 848	28 MoReg 874	28 MoReg 1520	
9 CSR 45-5.105	Division of Mental Retardation and Developmental Disabilities		28 MoReg 1805		
9 CSR 45-5.110	Division of Mental Retardation and Developmental Disabilities		28 MoReg 1805		
9 CSR 45-5.130	Division of Mental Retardation and Developmental Disabilities		28 MoReg 1809		
9 CSR 45-5.140	Division of Mental Retardation and Developmental Disabilities		28 MoReg 1812		
9 CSR 45-5.150	Division of Mental Retardation and Developmental Disabilities		28 MoReg 1816		
DEPARTMENT OF NATURAL RESOURCES					
10 CSR 10-2.260	Air Conservation Commission		28 MoReg 1564		
10 CSR 10-6.020	Air Conservation Commission		28 MoReg 719	28 MoReg 1569	
10 CSR 10-6.050	Air Conservation Commission				28 MoReg 1586
10 CSR 10-6.060	Air Conservation Commission		28 MoReg 724	28 MoReg 1572	
10 CSR 10-6.061	Air Conservation Commission		28 MoReg 728	28 MoReg 1574	
10 CSR 10-6.062	Air Conservation Commission		28 MoReg 731	28 MoReg 1578	
10 CSR 10-6.065	Air Conservation Commission		28 MoReg 734	28 MoReg 1582	
10 CSR 10-6.070	Air Conservation Commission		28 MoReg 555	28 MoReg 1520	
10 CSR 10-6.075	Air Conservation Commission		28 MoReg 557	28 MoReg 1520	
10 CSR 10-6.080	Air Conservation Commission		28 MoReg 559	28 MoReg 1521	
10 CSR 10-6.110	Air Conservation Commission		28 MoReg 1095	This Issue	
10 CSR 10-6.260	Air Conservation Commission		This Issue		
10 CSR 20-6.010	Air Conservation Commission		28 MoReg 1106		
10 CSR 25-12.010	Hazardous Waste Management Commission		28 MoReg 874	This Issue	
10 CSR 30-2.020	Land Survey		28 MoReg 878	28 MoReg 1521	
10 CSR 30-2.030	Land Survey		28 MoReg 879	28 MoReg 1522	
10 CSR 30-2.040	Land Survey		28 MoReg 879	28 MoReg 1522	
10 CSR 30-2.060	Land Survey		28 MoReg 880	28 MoReg 1522	
10 CSR 30-2.070	Land Survey		28 MoReg 880	28 MoReg 1522	
10 CSR 30-2.080	Land Survey		28 MoReg 880	28 MoReg 1522	
10 CSR 30-2.090	Land Survey		28 MoReg 881	28 MoReg 1522	
10 CSR 30-2.100	Land Survey		28 MoReg 881	28 MoReg 1523	
10 CSR 60-2.015	Public Drinking Water Program		28 MoReg 735	28 MoReg 1846	28 MoReg 1859
10 CSR 60-4.010	Public Drinking Water Program		28 MoReg 969		
10 CSR 60-4.020	Public Drinking Water Program		28 MoReg 736	28 MoReg 1846	
10 CSR 60-4.030	Public Drinking Water Program		28 MoReg 737	28 MoReg 1847	
10 CSR 60-4.040	Public Drinking Water Program		28 MoReg 739	28 MoReg 1847	
10 CSR 60-4.050	Public Drinking Water Program		28 MoReg 739	28 MoReg 1847	
10 CSR 60-4.055	Public Drinking Water Program		28 MoReg 744	28 MoReg 1848	
10 CSR 60-4.070	Public Drinking Water Program		28 MoReg 746	28 MoReg 1848	
10 CSR 60-4.090	Public Drinking Water Program		28 MoReg 747	28 MoReg 1848	
10 CSR 60-4.100	Public Drinking Water Program		28 MoReg 752	28 MoReg 1851	
10 CSR 60-5.010	Public Drinking Water Program		28 MoReg 973		
10 CSR 60-6.050	Public Drinking Water Program		28 MoReg 753	28 MoReg 1851	
10 CSR 60-7.010	Public Drinking Water Program		28 MoReg 753	28 MoReg 1851	
10 CSR 60-8.010	Public Drinking Water Program		28 MoReg 757R	28 MoReg 1851R	
			28 MoReg 757	28 MoReg 1852	
10 CSR 60-8.030	Public Drinking Water Program		28 MoReg 764	28 MoReg 1852	
10 CSR 60-9.010	Public Drinking Water Program		28 MoReg 776	28 MoReg 1857	
10 CSR 70-5.040	Soil and Water Districts Commission	28 MoReg 1369	This Issue		

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10 CSR 140-2.020	Division of Energy				28 MoReg 1526
10 CSR 140-2.030	Division of Energy				28 MoReg 1526
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11 CSR 10-5.010	Adjutant General	28 MoReg 1475	28 MoReg 1509		
11 CSR 40-6.010	Division of Fire Safety		28 MoReg 973	28 MoReg 1523	
11 CSR 40-6.020	Division of Fire Safety		28 MoReg 974	28 MoReg 1523	
11 CSR 40-6.031	Division of Fire Safety		28 MoReg 974	28 MoReg 1523	
11 CSR 40-6.040	Division of Fire Safety		28 MoReg 977	28 MoReg 1523	
11 CSR 40-6.045	Division of Fire Safety		28 MoReg 977	28 MoReg 1523	
11 CSR 40-6.050	Division of Fire Safety		28 MoReg 977	28 MoReg 1523	
11 CSR 40-6.055	Division of Fire Safety		28 MoReg 978	28 MoReg 1524	
11 CSR 40-6.060	Division of Fire Safety		28 MoReg 980	28 MoReg 1524	
11 CSR 40-6.075	Division of Fire Safety		28 MoReg 980	28 MoReg 1524	
11 CSR 40-6.080	Division of Fire Safety		28 MoReg 980	28 MoReg 1524	
11 CSR 40-6.085	Division of Fire Safety		28 MoReg 981	28 MoReg 1524	
11 CSR 45-4.260	Missouri Gaming Commission		28 MoReg 34		
11 CSR 45-9.030	Missouri Gaming Commission		28 MoReg 1106		
11 CSR 45-13.010	Missouri Gaming Commission		28 MoReg 1377		
11 CSR 45-13.020	Missouri Gaming Commission		28 MoReg 1377		
11 CSR 45-13.030	Missouri Gaming Commission		28 MoReg 1377		
11 CSR 45-13.045	Missouri Gaming Commission		28 MoReg 1378		
11 CSR 45-13.050	Missouri Gaming Commission		28 MoReg 1378		
11 CSR 45-13.051	Missouri Gaming Commission		28 MoReg 1379		
11 CSR 45-13.060	Missouri Gaming Commission		28 MoReg 1379		
11 CSR 45-13.070	Missouri Gaming Commission		28 MoReg 1380		
11 CSR 45-13.080	Missouri Gaming Commission		28 MoReg 1381		
11 CSR 45-30.540	Missouri Gaming Commission		28 MoReg 1110		
11 CSR 45-30.550	Missouri Gaming Commission		28 MoReg 1110		
11 CSR 50-2.010	Missouri State Highway Patrol		28 MoReg 1819		
11 CSR 50-2.020	Missouri State Highway Patrol		28 MoReg 1820		
11 CSR 50-2.050	Missouri State Highway Patrol		28 MoReg 1820		
11 CSR 50-2.160	Missouri State Highway Patrol		28 MoReg 1820		
11 CSR 50-2.200	Missouri State Highway Patrol		28 MoReg 1821		
11 CSR 50-2.270	Missouri State Highway Patrol		28 MoReg 1822		
11 CSR 50-2.320	Missouri State Highway Patrol		28 MoReg 1823		
11 CSR 50-2.340	Missouri State Highway Patrol		28 MoReg 1823		
11 CSR 75-13.010	Peace Officer Standards and Training Program		28 MoReg 1043	28 MoReg 1583	
11 CSR 75-13.090	Peace Officer Standards and Training Program		28 MoReg 1823		
11 CSR 75-14.030	Peace Officer Standards and Training Program		28 MoReg 1043	28 MoReg 1583	
11 CSR 75-14.080	Peace Officer Standards and Training Program		28 MoReg 1044	28 MoReg 1583	
DEPARTMENT OF REVENUE					
12 CSR 10-3.036	Director of Revenue		28 MoReg 1381R		
12 CSR 10-3.046	Director of Revenue		28 MoReg 1381R		
12 CSR 10-3.120	Director of Revenue		28 MoReg 1381R		
12 CSR 10-3.176	Director of Revenue		28 MoReg 1382R		
12 CSR 10-3.486	Director of Revenue		28 MoReg 1382R		
12 CSR 10-3.836	Director of Revenue		28 MoReg 1382R		
12 CSR 10-3.838	Director of Revenue		28 MoReg 1382R		
12 CSR 10-23.050	Director of Revenue		28 MoReg 1383		
	<i>(Changed to 12 CSR 10-26.190)</i>				
12 CSR 10-23.190	Director of Revenue		28 MoReg 1110	28 MoReg 1857	
	<i>(Changed to 12 CSR 10-26.180)</i>				
12 CSR 10-23.300	Director of Revenue		28 MoReg 1383		
12 CSR 10-23.330	Director of Revenue		28 MoReg 1384		
12 CSR 10-23.370	Director of Revenue		28 MoReg 1384		
12 CSR 10-23.420	Director of Revenue		28 MoReg 1384		
12 CSR 10-23.436	Director of Revenue		28 MoReg 1385R		
12 CSR 10-23.444	Director of Revenue		28 MoReg 1385R		
12 CSR 10-23.446	Director of Revenue		28 MoReg 981	28 MoReg 1524	
12 CSR 10-23.456	Director of Revenue		28 MoReg 1189	This Issue	
12 CSR 10-23.458	Director of Revenue		28 MoReg 1386		
12 CSR 10-24.090	Director of Revenue		28 MoReg 1661		
12 CSR 10-24.385	Director of Revenue		28 MoReg 1386		
12 CSR 10-24.390	Director of Revenue		28 MoReg 1386		
12 CSR 10-24.430	Director of Revenue		28 MoReg 1664		
12 CSR 10-26.120	Director of Revenue		28 MoReg 1664		
12 CSR 10-26.180	Director of Revenue		28 MoReg 1110	28 MoReg 1857	
	<i>(Changed from 12 CSR 10-23.190)</i>				
12 CSR 10-26.190	Director of Revenue		28 MoReg 1383		
	<i>(Changed from 12 CSR 10-23.050)</i>				
12 CSR 10-110.900	Director of Revenue		28 MoReg 881	28 MoReg 1584W	
12 CSR 10-111.010	Director of Revenue		28 MoReg 886	28 MoReg 1584W	
DEPARTMENT OF SOCIAL SERVICES					
13 CSR 40-2.310	Division of Family Services	28 MoReg 1421	28 MoReg 1423		
13 CSR 40-2.380	Division of Family Services	28 MoReg 1421	28 MoReg 1423		
13 CSR 40-19.020	Division of Family Services	This Issue	This Issue		
13 CSR 40-31.025	Division of Family Services		28 MoReg 34		

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13 CSR 70-4.040	Division of Medical Services		28 MoReg 1044	28 MoReg 1721	
13 CSR 70-4.070	Division of Medical Services		28 MoReg 1511		
13 CSR 70-10.015	Division of Medical Services	This Issue	This Issue		
13 CSR 70-10.080	Division of Medical Services	This Issue	This Issue		
13 CSR 70-10.110	Division of Medical Services	This Issue	This Issue		
13 CSR 70-15.110	Division of Medical Services	28 MoReg 1023 28 MoReg 1755T 28 MoReg 1755	28 MoReg 1044 28 MoReg 1824	28 MoReg 1722	
13 CSR 70-40.010	Division of Medical Services	28 MoReg 397T	28 MoReg 650	28 MoReg 1525	
13 CSR 70-98.010	Division of Medical Services		28 MoReg 1111		
ELECTED OFFICIALS					
15 CSR 30-8.020	Secretary of State		This Issue		
15 CSR 30-8.030	Secretary of State		This Issue		
15 CSR 30-12.010	Secretary of State		This Issue		
15 CSR 30-50.010	Secretary of State	28 MoReg 1616	28 MoReg 1664		
15 CSR 30-50.020	Secretary of State	28 MoReg 1617	28 MoReg 1665		
15 CSR 30-50.030	Secretary of State	28 MoReg 1617	28 MoReg 1666		
15 CSR 30-50.040	Secretary of State	28 MoReg 1618	28 MoReg 1667		
15 CSR 30-51.010	Secretary of State	28 MoReg 1619	28 MoReg 1668		
15 CSR 30-51.020	Secretary of State	28 MoReg 1620	28 MoReg 1668		
15 CSR 30-51.030	Secretary of State	28 MoReg 1620	28 MoReg 1669		
15 CSR 30-51.040	Secretary of State	28 MoReg 1620	28 MoReg 1669		
15 CSR 30-51.050	Secretary of State	28 MoReg 1620	28 MoReg 1670		
15 CSR 30-51.060	Secretary of State	28 MoReg 1622	28 MoReg 1670		
15 CSR 30-51.070	Secretary of State	28 MoReg 1623	28 MoReg 1671		
15 CSR 30-51.090	Secretary of State	28 MoReg 1623	28 MoReg 1671		
15 CSR 30-51.100	Secretary of State	28 MoReg 1623	28 MoReg 1672		
15 CSR 30-51.110	Secretary of State	28 MoReg 1624	28 MoReg 1672		
15 CSR 30-51.120	Secretary of State	28 MoReg 1624R 28 MoReg 1624	28 MoReg 1672R 28 MoReg 1672		
15 CSR 30-51.130	Secretary of State	28 MoReg 1625R 28 MoReg 1625	28 MoReg 1673R 28 MoReg 1673		
15 CSR 30-51.140	Secretary of State	28 MoReg 1625R 28 MoReg 1626	28 MoReg 1673R 28 MoReg 1674		
15 CSR 30-51.145	Secretary of State	28 MoReg 1627	28 MoReg 1675		
15 CSR 30-51.150	Secretary of State	28 MoReg 1628R	28 MoReg 1676R		
15 CSR 30-51.160	Secretary of State	28 MoReg 1628	28 MoReg 1676		
15 CSR 30-51.165	Secretary of State	28 MoReg 1630	28 MoReg 1678		
15 CSR 30-51.169	Secretary of State	28 MoReg 1630	28 MoReg 1678		
15 CSR 30-51.170	Secretary of State	28 MoReg 1632	28 MoReg 1679		
15 CSR 30-51.180	Secretary of State	28 MoReg 1632	28 MoReg 1680		
15 CSR 30-52.010	Secretary of State	28 MoReg 1633	28 MoReg 1681		
15 CSR 30-52.015	Secretary of State	28 MoReg 1633	28 MoReg 1681		
15 CSR 30-52.020	Secretary of State	28 MoReg 1634	28 MoReg 1682		
15 CSR 30-52.025	Secretary of State	28 MoReg 1634	28 MoReg 1682		
15 CSR 30-52.030	Secretary of State	28 MoReg 1635	28 MoReg 1683		
15 CSR 30-52.100	Secretary of State	28 MoReg 1636	28 MoReg 1683		
15 CSR 30-52.120	Secretary of State	28 MoReg 1636	28 MoReg 1684		
15 CSR 30-52.200	Secretary of State	28 MoReg 1637	28 MoReg 1684		
15 CSR 30-52.260	Secretary of State	28 MoReg 1637	28 MoReg 1684		
15 CSR 30-52.275	Secretary of State	28 MoReg 1638	28 MoReg 1685		
15 CSR 30-52.280	Secretary of State	28 MoReg 1638	28 MoReg 1685		
15 CSR 30-52.300	Secretary of State	28 MoReg 1638	28 MoReg 1686		
15 CSR 30-52.310	Secretary of State	28 MoReg 1639	28 MoReg 1686		
15 CSR 30-52.320	Secretary of State	28 MoReg 1639	28 MoReg 1686		
15 CSR 30-52.330	Secretary of State	28 MoReg 1639	28 MoReg 1687		
15 CSR 30-52.340	Secretary of State	28 MoReg 1640	28 MoReg 1687		
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03-02	Establishes the Division of Family Support in the Dept. of Social Services	February 5, 2003	28 MoReg 298
03-03	Establishes the Children's Division in the Dept. of Social Services	February 5, 2003	28 MoReg 300
03-04	Transfers all TANF functions to the Division of Workforce Development in the Dept. of Economic Development	February 5, 2003	28 MoReg 302
03-05	Transfers the Division of Highway Safety to the Dept. of Transportation	February 5, 2003	28 MoReg 304
03-06	Transfers the Minority Business Advocacy Commission to the Office of Administration	February 5, 2003	28 MoReg 306
03-07	Creates the Commission on the Future of Higher Education	March 17, 2003	28 MoReg 631
03-08	Lists Governor's Staff Who Have Supervisory Authority Over Departments	September 4, 2003	28 MoReg 1556
03-09	Lists Governor's Staff Who Have Supervisory Authority Over Departments	March 18, 2003	28 MoReg 633
03-10	Creates the Missouri Energy Policy Council	March 13, 2003	28 MoReg 634
03-11	Creates the Citizens Advisory Committee on Corrections	April 1, 2003	28 MoReg 705
03-12	Declares Disaster Areas due to May 4 Tornadoes	May 5, 2003	28 MoReg 950
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03-15	Establishes the Missouri Small Business Regulatory Fairness Board	August 25, 2003	28 MoReg 1477
03-16	Establishes the Missouri Commission on Patient Safety	October 1, 2003	28 MoReg 1760
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